VOL. 84

EVIDENCE GATHERED FOR THE
REPORT
of
THE ROYAL COMMISSION
APPOINTED TO INQUIRE INTO
THE FAILURE
of
ATLANTIC ACCEPTANCE CORPORATION
LIMITED

EXAMINATION OF JACK TRAMIEL
Date of interview: November 30, 1966
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SUPREME COURT REPORTERS
145 YONGE STREET
TORONTO

DATE 30th November, 1966
PAGES 11286 - 11465

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TRAMIEL, Jack

Examined by
Mr.Shepherd 11286

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3635	11351	Corporation Income Tax return for Commodore Portable Typewriter Limited for the fiscal period ending January 31, 1959, signed by Mr. Kapp as director, to which is annexed statements and documents.

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WEDNESDAY, NOVEMBER 30, 1966

---On resuming at 10:06 a.m.

MR. SHEPHERD: Mr. Tramiel?

JACK TRAMIEL, sworn:

THE COMMISSIONER: Mr. Pomerant, you are appearing for Mr.Tramiel?

MR. POMERANT: Yes, I am, Mr. Commissioner.

THE COMMISSIONER: Your initials are J.B, are they?

MR. POMERANT: Yes, they are.

EXAMINED BY MR. SHEPHERD:

Q. What is your full name, please?

A. Jack Tramiel.

Q. Is that T-r-a-m-i-e-l?

A. T-r-a-m-i-e-l.

Q. What is your date and place of birth?

A. December 13, 1927, Lodz, Poland.

Q. How do you spell that, please?

A. L-o-d-z.

THE COMMISSIONER: L-o-d-- what?

A. Zee.

THE COMMISSIONER: I am sorry, I didn't get

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the last letter.

MR.SHEPHERD: "Zee",

Q. I take it, your name, Mr. Tramiel, would originally be spelled differently, what was your father's surname?

A. Trzmiel.

Q. How do you spell that, please?

A. T-r-z-m-i-e-l.

Q. Thank you. What education have you?

A. Public schooling.

Q. In Poland?

A. In Poland.

Q. Were you in Germany during any part of the war years?

A. Yes.

Q. Were you a prisoner in one of the camps in Germany?

A. Yes.

Q. In what years?

A. From 1940 to 1945.

Q. Did you learn to speak German?

A. Yes.

Q. When did you emigrate from Germany?

A. In 1947.

Q. And where did you go?

A. To New York City.

Q. How long did you remain in the United States?

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A. Until 1955.

Q. Are you an American citizen?

A. Yes, I am.

Q. What was your background then in the United States after your arrival? What did you do?

A. In 1947-48, beginning of '48 I had different odd jobs and in the middle of '48 I believe I joined the American Army.

Q. Yes?

A. I got discharged in the beginning of 1950.

Q. Yes?

A. I was recalled at the beginning of 1951, I believe. I got discharged again, I believe the end of '51.

Q. Yes?

A. When I came out I was working for a company called Ace Typewriter, repairing typewriters.

Q. Had your work in theAmerican Army been involved with typewriters?

A. Yes.

Q. That is where you learned your skill, is it?

A. Yes.

Q. And when did you meet Mr. Kapp? I refer to Mr. Manfred Kapp.

A. Sometimes in 1952-53.

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Q. Under what circumstances did you meet him?

A. Mr. Kapp, before he joined the Army, used to work in the same company where I was working then.

Q. Ace Typewriter?

A. Yes.

Q. Is that a predecessor company to A.C.E.Business Machines Limited?

A. No.

Q. Is it connected in any way with this latter company?

A. No.

Q. Did you at any time have an interest as officer or shareholder in a company called A.C.E.Business Machines?

MR. POMERANT: Mr. Commissioner, Mr. Tramiel has instructed me that he objects to answering this question on the grounds that his answer may tend to incriminate him, may tend to establish his liability to civil proceedings at the instance of the Crown or any person or prosecution under any acts of Provincial legislature. Mr.Tramiel invokes Section 5, Canada Evidence Act, Section 9, Ontario Evidence Act and any other relevant sections of any other Provincial act of evidence, Mr. Commissioner, so as not to interfere with the examination of Mr. Tramiel and because all the questions at this

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examination would require answers by Mr. Tramiel that may incriminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or any person or to prosecution under any act of the Provincial Legislature may it be accepted that Mr. Tramiel objects and is deemed to object to answer every question at this examination on the grounds his answers may tend to incriminate him or tend to establish his liability to civil proceeding at the instance of the Crown or any other person or to a prosecution under any act of the Legislature and that Mr. Tramiel is deemed to have claimed protection under Section 5 Canada Evidence Act, Section 9 of the Ontario Evidence Act and any other relevant Provincial acts of evidence and may it be admitted, Mr. Commissioner that by the use of the word "examination" at this stage that this would refer to any questions asked of Mr. Tramiel during the course of the enquiry that you are presently engaged in, sir? By that I mean that the objection taken would apply to every question asked at any stage which Mr. Tramiel would be required to give evidence before you, sir.

THE COMMISSIONER: Well, Mr. Pomerant, I don't see any difficulty about your final observation except you may wish to change your position at some

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time or in some future occasion the existence of which I cannot foresee. I suggest that the witness claim this protection at this stage in connection with all questions asked in the course of his examination by Mr. Shepherd at this time and then, if there are subsequent occasions when he is recalled, you may wish to claim it again.

MR. POMERANT: Thank you, sir.

THE COMMISSIONER: And you certainly may. Well, yes, under those circumstances and subject to the protection of the statutes you referred to, the witness will be directed to answer.

MR. POMERANT: Yes, sir.

MR.SHEPHERD: Q. I believe I asked, Mr. Tramiel, a question generally to this effect whether you at any time, directly or indirectly, had any interest as officer, director or shareholder in a company incorporated in the State of New York known as "A.C.E. Business Machines" followed by the word either "limited" or "incorporated"?

A. I believe I was a director.

Q. Yes, and that company, I take it, is not in any way related to the Ace Typewriter to which you are now referring, is that correct?

A. It is not.

Q. When you say you believe you were a

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director are those words intended to indicate some uncertainty or is it simply a method you have of expressing yourself?

A. No, uncertainty.

Q. You are not sure whether you were or not?

A. That is right.

Q. Do you know whether or not you were a shareholder in any such company?

A. I am not sure about this either, but I had some connection with the company.

Q. Do you know whether or not you were an officer or director?

A. No, I am not sure.

Q. May I take it then that you have heard of such a company and that it may be that you were one or more, officer, director, or shareholder, but you are not certain?

A. That's right.

Q. Now, you worked for Ace Typewriter as an employee, is that correct?

A. Yes.

Q. And you met Mr.Kapp there and he was also working as an employee?

A. No, he was in the Army then.

Q. I see. Then did Mr.Kapp, after his discharge from the Army, go to work for Ace Typewriter?

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A. Yes.

Q. What did you do then, we are now speaking of 1951, are we?

A. No later than that.

Q. What year?

A. Mr.Kapp came back, I believe it was, '53.

Q. Yes, you had worked though for Ace Typewriter from about 1951 on?

A. Yes.

Q. Yes. Then in 1953 Mr. Kapp goes to work for Ace Typewriter, is that correct?

A. Yes.

Q. What did you do after that?

A. He went back to work, he used to work for Ace Typewriter before.

Q. Yes. Then what did you do?

A. In 1954 we decided we will go into business together.

Q. Yes?

A. And we bought two hundred machines, used machines.

Q.Yes?

A. From the United Nations in New York.

Q. Are you and Mr. Kapp now partners?

A. Right.

Q. Were you equal partners?

A. Yes.

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Q. What did you do then?

A. We bought those two hundred machines from the United Nations and we had them in our garage at home.

Q. Yes?

A. And we used to repair them at night and then we had an opportunity to buy a company called "Singer Typewriter Company".

Q. This was a limited company or just a business carried on under that name?

A. I believe it was a limited company.

Q. Yes?

A. It was in the Bronx, New York, and we had decided to buy this company.

Q. In what business was that company engaged?

A. Well, selling and buying used and new typewriters, office machines.

Q. Were you selling them at retail?

A. Retail.

Q. Did you have a store?

A. Yes.

Q. Yes. Go ahead, please.

A. And I was doing mostly the selling and the repairs, the outside repairs and Mr. Kapp used to do the repairs inside and administration.

Q. Yes?

A. Of our business. Then we had some

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exclusive lines in the Bronx for the Bronx territory in New York and one of those exclusive lines was an adding machine or multiplier and with which we did very well.

Q. What was it called so we may distinguish it from other adding machines we will be dealing with?

A. "Everest Adding Machine".

Q. Yes?

A. Sometime in 19-- the end of '54 on one of my trips to Toronto, my wife's family lives here , I went in to see a number of dealers, office machine dealers in town and I inquired if there would be any interest for this machine.

Q. This is the Everest Adding Machine?

A. The Everest Adding Machine.

Q. Yes?

A. And they were quite interested. I went back to New York, I had discussion with the manufacturer and at that time he appointed us the national distributor for Canada.

Q. Yes.

A. For this line of machines.

Q. Did he appoint Singer Typewriter Company or yourself and Mr. Kapp?

A. Mr. Kapp and myself.

Q. Yes?

A. And at that time I used to come here

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during the week by car and used to visit dealers from city to city.

Q. You spoke of seeing your family, Mr. Tramiel, is your family Mr. and Mrs. Silberman?

A. No.

Q. What relation are Mr. and Mrs. Silberman to you?

A. Pardon me, Mr. and Mrs. Silberman are my step-mother and father, they live in New York, they don't live in Toronto.

Q. Let's say your mother and step-father, is that correct?

A. Yes.

Q. Go ahead, please.

A. After travelling for a few weeks I rented an office on 2 Toronto Street and we worked from there.

Q. Yes, under what name did you carry on business at 2 Toronto Street?

A. Everest Office Equipment, Office Machines.

Q. Is that a limited company which later became "Evermac Office Equipment"?

A. Yes.

Q. Yes. Then how much money was invested in this limited company, Everest, which later became "Evermac"?

A. I would say about between fifteen and

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twenty thousand dollars.

Q. And who invested it?

A. Most of the money was borrowed from my family.

Q. Mr. and Mrs. Silberman?

A. Right.

Q. Yes?

A. After we - most of the money was borrowed from my family.

Q. Having borrowed it you paid it into the company. Who became the shareholders of the company?

A. At that time still Mr. Kapp's family, Mr. Kapp's wife and Mr. Kapp and my wife and myself.

Q. Were you and Mr. Kapp equal partners in Everest?

A. Yes.

Q. Yes. What did you do then?

A. After travelling Canada and showing and selling this line of adding machines and typewriters, we felt that we needed some more lines and I was approached by one of our suppliers of the United States of used machines and I was asked if I could sell those used machines in Canada.

Q. Yes?

A. I agreed and this company has shipped us machines to Canada and then we were in the

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used machine business too.

Q. Yes?

A. At that time I had discussion with Mr. Kapp because we needed more help here in Toronto and we had sold Singer Typewriter and we needed some additional capital for the business here and Mr. Kapp used to come during the week days to Toronto.

Q. Yes?

A. This was a year later.

Q. What year are we now speaking of, Mr. Tramiel?

A. '56.

Q. Yes?

A. My family, I brought my family over to Canada to Don Mills and Mr. Kapp, after 10 - 12 months, moved his family too.

Q. Yes. What is the name of the supplier who was sending you used machines, is that "Type Sales Company Limited"?

A. I believe it was "Type Sales Incorporated".

Q. Now, Mr.Kapp thereafter lived in Canada, is that correct?

A. After a year.

Q. What is Mr. Kapp's citizenship?

A. I believe it is U.S., American citizenship.

Q. Now, Everest Office Machines is now in

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the business of selling new adding machines and used typewriters, is that correct?

A. I believe there was a company opened up called "Wholesale Typewriter Company" for the used machine business.

Q. And Everest sold only adding machines?

A. The new machines.

Q. The new adding machines?

A. There was a typewriter line, too.

Q. I see. What happened then?

A. We continued selling both lines of equipment. After eighteen months to two years, the sales had slowed down quite a bit.

Q. Are we now speaking of the year 1958?

A. End of '57, beginning of '58.

Q. Yes?

A. The machines - the used machines have slowed down quite a bit because the models were not very well accepted here in Canada and then I had discussion with Type Sales, oh yes, during the period of time between '56 and '58 Type Sales became a partner in our business here in Canada because they had to supply us larger quantities of machines.

Q. Did they own shares in Everest Office Machines or only in the typewriter company?

A. I believe first it was only in the

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Wholesale Typewriter Company.

Q. Yes?

A. I believe so. Then it was in Evermac.

Q. Did they subsequently surrender their share interest in Evermac?

A. I believe they did. I was not involved in the settlement so I wouldn't know that, but I believe they did.

Q. Were they shareholders of Evermac, let us say, in 1962?

A. I don't think so.

Q. Go on, please?

A. When the sales slowed down we had a meeting in New York between Type Sales and ourselves and I told them of the problems we have of selling this equipment.

Q. Yes?

A. And by then we had quite a number of customers here in Canada also including some large department stores and I constantly asked those people what they could sell, what kind of merchandise they needed and the need at the time was a portable typewriter.

Q. A new one?

A. A new one.

Q. Yes?

A. I had discussion with Type Sales,

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I advised them of this, that I recommended we should go into the new portable field. Type Sales only was to sell used machines and they said they had no interest in it.

Q. Yes?

A. At that time I told them that Mr. Kapp and myself will try to go into this business.

Q. Yes, had you up to this time met a potential supplier of such machines?

A. No.

Q. All right, go ahead, please?

A. Well, I did meet the supplier, but I wasn't thinking that he would be the supplier.

Q. I see. Well, perhaps you could tell us what you did. Did you meet anybody in England who was an agent for a Czech Company?

A. I had met a Mr.Markus who was the managing director of a company called "Typewriter Sundries".

Q. Company Limited, is it not?

A. Company Limited.

Q. United Kingdom Company?

A. AnEnglish ---

Q. Yes?

A. And this company was the agent for Everest Machines for Great Britain.

Q. Yes?

A. And I had met this gentleman and he

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became like an advisor to me in the office machine field because his family was in this business for a long time.

Q. Yes?

A. And he guided me quite well and wherever I needed anything new I used to write to him or ask him and discuss with him whether he could be of any help.

Q. Is that M-a-r-k-u-s?

A. Yes.

Q. Yes?

A. Mr. Markus, when I had the discussion with him, told me about a line of machines from Czechoslovakia.

Q. Yes?

A. He even told me there is a number of machines right here in Toronto the previous distributor had and he could arrange that we could get the agency for those machines.

Q. In Canada?

A. In Canada.

Q. Yes.

A. And we did. At that time we had opened a company called "Commodore Portable Typewriter", Limited company.

Q. Is that an Ontario Company which perhaps you could take it from me was incorporated on the 10th of October, 1958?

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A. That's about right.

Q. Yes, all right, who owned Commodore Portable Typewriter Company Limited on its incorporation?

A. I believe at that time, which I am not exactly sure, but I believe at that time it was - we also have given some shares to my mother and step-father.

Q. Yes?

A. For the loans which he has made to us.

Q. The corporate records will, of course, speak for themselves, but do you agree that the holders of all the shares of Commodore Portable Typewriters after its incorporation were you and Mr. Kapp or your wives and Mr. and Mrs. Silberman?

A. Yes.

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MR. SHEPHERD: Q. Yes. Now, you have three companies - Commodore Portable Typewriters, Everest Office Machines and Wholesale Distributors. Is that not correct?

A. Yes.

Q. What happened to those companies?

A. You have said three, Mr. Shepherd?

Q. Is that not correct?

A. Commodore Portable Typewriter -

Q. Yes?

A. -- it was then the operating company.

Q. And Everest Office Machines and Wholesale Distributors?

A. Both of those companies, the Wholesale and Evermac, our intention was to sell the equipment, whatever we had left over, and pay off all our liabilities.

Q. Yes?

A. And this is what we were doing and trying to accomplish.

Q. Yes?

A. When we have start to sell the portable typewriters fairly successful Type Sales came over to Toronto and they felt that they are also partners of Commodore Portable Typewriters.

Q. Why did they take that position?

A. I could not answer you, Mr. Shepherd.

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Q. What did they assert? Did they assert that you and Mr. Kapp obtained the rights from Mr. Markus in your capacity as officers of Everest or Wholesale Distributors and, therefore, they should have an interest?

A. Well, maybe this is the way they thought about it. But, Mr. Markus had all the information, he was advised about our relation with Type Sales. He was also advised that we intend to pay off all our debts and close these companies; so Mr. Markus was quite clear.

Q. Had Type Sales been advised of your intention?

A. They were advised before I started with Mr. Markus.

Q. They came to Toronto and asserted some interest in Commodore Portable Typewriters. Is that correct?

A. Yes.

Q. About what time did this occur?

A. I am not sure of the exact date but I think it is sometime in the beginning of 1959.

Q. Early 1959?

A. Yes.

Q. Yes. Then, what happened?

A. Well, when they came here -- At that time I have already met Mr. Morgan.

Q. How was Everest, later Evermac, financed,

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apart from the contributions of shareholders?

A. I believe we have factored our receivables with a company called Interprovincial Discount.

Q. And after Commodore Portable Typewriters went into business how was it financed?

A. We continued with Interprovincial Discount.

Q. If you will take it from me, the date of incorporation of Commodore was the 10th of October, 1958. About when did that company commence business?

A. Very soon after that.

Q. Within a matter of days or weeks; is that correct?

A. Yes.

Q. What financing were you getting from Interprovincial Discount?

A. I believe it was 85% of the face value of the receivables.

Q. Yes. And was there any upper limit to the amount of money which they would lend?

A. We didn't discuss any limit at that time.

Q. Did you find the financial arrangements you had with Interprovincial Discount on behalf of Commodore Portable Typewriters adequate for the purposes of that company?

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A. Well, after a certain amount of months it wasn't sufficient.

Q. What was it you required which you were not getting?

A. Well, I believe we required an additional quarter of a million dollars.

Q. Did you require any guarantees?

A. Yes.

Q. What form of guarantees did you require?

A. We required guarantees for the manufacturer of these portable typewriters, which was a manufacturer in Czechoslovakia.

Q. Yes?

A. I did submit, I believe, Interprovincial to them and it was not acceptable.

Q. So, your Czechoslovakian supplier of the portable typewriters required some acceptable person to guarantee the payment for the typewriters exported by the Czechoslovakian company, a guarantor being other than Commodore Portable Typewriters. Is that correct?

A. Yes. This is only if we intended to get credit from them.

Q. Your choice was, I suppose, to pay cash on the barrel head, as the expression is?

A. Against documents.

Q. Then, you arranged with Interprovincial

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Discount that they would extend such a guarantee but the guarantee was not acceptable to the Czechoslovakian supplier. Is that correct?

A. Yes.

Q. What did you do then?

A. At that time we had quite a few orders for those machines and I went back to my customers.

Q. These are large department stores in the city?

A. Yes. I have advised them of our difficulties and they have issued a letter of credit to us, or to the supplier, to cover the machines in that particular month, or whatever they have ordered.

Q. Yes?

A. Which helped me out in the interim.

Q. Yes.

A. But I could see the way those machines are selling I will require more financing. At that time we were advertising in a small company, in a magazine called Canadian Office.

Q. That is the name of the magazine?

A. Yes.

Q. Yes?

A. And I have met one of the -- I am not sure if he was an editor, one of the people from that company, and we had discussed about financing.

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Q. What was his name?

A. I believe it was Hall. And after a few hours he mentioned to me he will see to me what he can do, maybe he has some friends in the investment field. He called me the following day, or a few days after, and he introduced me to a company called Annett and Company, or Partners.

Q. What man did you see at Annett and Company?

A. Well, Douglas Annett.

Q. Yes?

A. And we had a long discussion about Commodore. Mr. Annett asked quite a few questions. I left a day. And he also mentioned to me he will let me know what can be done.

Q. What were you asking him to do?

A. I asked him if there was a way to get some financing for Commodore Portable Typewriters, to be able to buy this equipment from Czechoslovakia.

Q. I take it that you felt your suppliers might prove unwilling to continue to extend these guarantees over a period of time. Is that correct?

A. No, but I felt even if we got guarantees we will still have to pay for the merchandise and as the business grows we will require more money.

Q. What was the result of the first

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discussion with Mr. Annett?

A. We were discussing many different directions and Mr. Annett has come back and has mentioned he doesn't see any way how we can get any money from any investment broker or institution.

Q. Yes?

A. He would recommend that we should continue financing our receivables with a finance company for a period of time and if Interprovincial is not sufficient he knows of a company which might be interested in financing our business.

Q. And what else did he tell you?

A. The following day he would introduce me to the president of this finance company.

Q. Did you meet the president?

A. Yes, the following day I met Mr. Morgan.

Q. This is Mr. C.Powell Morgan, the president of Atlantic Acceptance Corporation?

A. Yes.

Q. When was this?

A. Mr. Shepherd, the exact date, I don't recall.

Q. Would March of 1959 seem right - that is the date Mr. Wagman has testified to?

A. It must have been a few days before.

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Q. Perhaps February of 1959?

A. It could be.

Q. Would it be in 1959?

A. Yes, the beginning of 1959.

Q. Perhaps January or February of 1959?

A. Yes.

Q. Where did you meet Mr. Morgan?

A. In Annett's offices.

Q. Who else was present?

A. I believe it was Mr. King, Mr.Carman King, but I am not sure.

Q. And Mr. Annett, Mr. Morgan and yourself. Is that correct?

A. Yes.

Q. Had you ever met Mr. Morgan before?

A. No.

Q. Was Mr. Kapp present?

A. At the first meeting he was not.

Q. What was discussed?

A. The requirements of the Commodore needs, or Commodore's future needs, why we need money, what the business outlook is, who our customers are, who is the manufacturer and a number of those questions.

Q. And what did Mr. Morgan say?

A. After discussing it for about four hours Mr.Morgan said that yes, he believed that this would be an interesting business for Atlantic to go

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into, the factoring business.

Q. Yes?

A. He asked me who our lawyer is, which I have given him the name.

Q. Who was the lawyer at that time?

A. Mr. Louis --

Q. Mr. L.W.Spencer?

A. Yes.

Q. Yes.

A. Before this Mr. Morgan's recommendation was that Atlantic Acceptance would invest 51% into this new factoring company.

Q. Yes?

A. Commodore Portable Typewriter 25% and Annett and Partners, 24%.

Q. Now, this is all at this one meeting, is it, when Mr.Morgan decides upon the solution of incorporating a new company in which Atlantic will have 51%. Is that correct?

A. Mr. Shepherd, I believe it was the following day. We continued for a day or two.

Q. And may I take it the first meeting was one devoted to learning what the requirements of Commodore Portable Typewriters were and generally discussing the problems and the affairs of that company. Is that correct?

A. Yes. In the following day, I am not sure it was the following day or a few days later.

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Q. And at that meeting I think you said Mr. Morgan said he thought this would be of interest to Atlantic?

A. Yes, because during these few days in between Mr.Morgan did have some people look into Commodore Portable Typewriters.

Q. Yes?

A. I believe it was a gentleman by the name of Rooney.

Q. Do you know which Mr. Rooney that was?

A. Consolidated -- One of the companies which had an investment in Atlantic Acceptance.

THE COMMISSIONER: Q. Consolidated Toronto Development Company, does that sound familiar?

A. It could be, Mr.Commissioner.

MR. SHEPHERD: Q. I am sorry to trouble you on this, Mr. Tramiel, but I wish to make sure that I understand precisely the sequence of events: You went to see Mr. Annett and discussed the problems of your company with him and he considered the matter and then advised you that you ought not to expect at that time to be able to raise the money through an investment dealer in the way of selling securities or from an institution. Is that correct?

A. Yes, it is.

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Q. His recommendation to you was that you continue to do that which you had been doing theretofore, financing your receivables from a finance company. Is that correct?

A. Yes.

Q. And he told you he knew the president of a finance company and he would have him come and meet you. Is that correct?

A. Correct.

Q. Now, up to this time was there any discussion by Mr. Annett about forming a new company with which you would be dealing?

A. Then there isn't.

Q. Then, you met Mr. Morgan and at the first meeting the affairs of Commodore Portable Typewriters and its problems were reviewed and Mr. Morgan indicated that Atlantic Acceptance might look favourably upon the request of Commodore Portable Typewriters. Is that correct?

A. Yes.

Q. The next thing which occurs is that someone, sent by Mr. Morgan, who may have been Mr. Rooney, whom you understood to come from a company in the name of which were included the words "Consolidated" and "Development", at any rate a company which had money invested in Atlantic Acceptance, such a man came and looked over the

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operation of Commodore Portable Typewriters. Is that correct?

A. Yes.

Q. Then, what is the next move?

A. The next move, really, is that we have met again, and this is when Mr.Morgan has made a decision on what basis the company should be incorporated.

Q. Where was this meeting held?

A. In Mr. Annett's office.

Q. And at this meeting I understood you to say Mr. Morgan said that a new company would be formed, that Atlantic would hold 51%, and Annett 24% and Commodore Portable Typewriters, 25%. Is that correct?

A. Right.

Q. Where did the name "Commodore Sales Acceptance" come from?

A. Well, it could have been from the product because we were -- Mr.Morgan did say he hasn't too much experience in the factoring business and he would like to start with Commodore Portable Typewriter first.

Q. So, you believe the name "Commodore Sales Acceptance" was related to the word "Commodore" in the name of Commodore Portable Typewriters?

A. Yes.

Q. Commodore Portable Typewriters was now

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being asked to invest 25% of the funds required by this new company. Is that correct?

A. Yes.

Q. Did the new company intend to limit its operations only to financing Commodore Portable Typewriters or was it intended that its operations would be more widespread?

A. Well, Mr.Morgan mentioned that for the first year, till he will know the business better, he would finance Commodore only.

Q. How much money in all was advanced initially in Commodore Sales Acceptance?

A. Mr.Shepherd, do you mean how much Commodore Sales Acceptance has advanced to Commodore Portable Typewriter?

Q. No, how much did Commodore Portable Typewriters, Annett and Company, and Atlantic Acceptance, advance to Commodore Sales Acceptance, initially?

A. There was $100,000 in notes.

Q. I will return to that in a moment. But, did Commodore Sales Acceptance, or the intended incorporators of it, make any arrangements for other financing for Commodore Sales Acceptance?

A. At that time?

Q. Yes.

A. Only to buy a certain amount of common shares.

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Q. Did Commodore Sales Acceptance make any arrangements for any bank financing?

A. Yes.

Q. Where was this done?

A. In the head office, or the Toronto branch of the Bank of Nova Scotia.

Q. Who was present at that meeting?

A. The bank manager, Mr.Morgan, I believe it was Mr. Annett and Mr. King, Mr. Wagman I believe,and I am not sure if Mr. Spencer was there or not, and myself.

Q. What was Mr. Wagman doing there?

A. He was one of Mr.Morgan's people. I had never seen the man before.

Q. Had you ever met Mr. Walton before?

A. No, I did not.

Q. Was Mr. Wagman, or his firm, to be the auditor of Commodore Sales Acceptance?

A. I didn't know at that time.

Q. When did you first learn that Mr. Wagman's firm was to be auditor of Commodore Sales Acceptance?

A. Well, I didn't know -- I would say in a few weeks or a few months later.

Q. Mr.Wagman testified generally to the effect that he was summoned by telephone to the meeting at the Bank of Nova Scotia attended by the

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persons you have named in or about the month of March, 1959, and that at that meeting he was informed that his firm was appointed auditor of Commodore Sales Acceptance, and that was the only participation which he had in that meeting. In the light of what he has said can you assist us as to whether that is correct?

A. Mr. Shepherd, what I knew at that particular time, I didn't hear Mr. Wagman say very much; but I only know when we started doing business Mr.Wagman was, like, the operating man in Commodore Sales Acceptance, he was the man which is giving us the cheques, we have delivered the securities to him. Mr. Kapp had constant meetings with Mr. Wagman, exactly how to secure the loans; and any time we had requirements for money Mr. Kapp used to go first to Mr.Wagman and show him what and then Mr.Morgan used to come in when the complete picture --

Q. But, do you recall at that meeting of the Bank of Nova Scotia Mr. Morgan informing Mr. Wagman on his arrival at the meeting that he was there to be told that his firm had been appointed auditor of Commodore Sales Acceptance?

A. No, I don't know.

Q. No, I am sorry.

A. No, I didn't hear any comments.

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Q. Now, I would like to return to the meeting at which the shareholdings were established, which occurred in the office of Annett. In point of time, when did that meeting occur in Annett's office in relation to when the meeting occurred at the Bank of Nova Scotia?

A. That must have been in the same month.

Q. Did the meeting in Annett's office occur before the meeting at the Bank of Nova Scotia?

A. Yes, sir.

Q. What financing was arranged from the Bank of Nova Scotia?

A. $300,000.

Q. So, the company, Commodore Sales Acceptance, now had at its disposal, $400,000. Is that correct?

A. Yes.

Q. Now, Mr.Tramiel, would you agree with me, that in February, 1959, Commodore Portable Typewriters did not have $25,000 readily available for the purpose of purchasing a note from Commodore Sales Acceptance?

A. Mr. Shepherd, our operating account always had money. We didn't have lots of money.

Q. Did you have $25,000 for this purpose?

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A. No, we wouldn't have been asked, we wouldn't have invested it.

Q. But you were asked. So, did you have the money readily available to invest, or available at all?

A. I really didn't investigate if we did or if we didn't, because I knew we were going to be in a position to borrow money in the future, more money than we got before from Interprovincial.

Q. Commodore Portable Typewriters invested $25,000 in cash in Commodore Sales Acceptance against the issue of a promissory note. Is that correct?

A. Yes.

Q. Was it raised that one would be able to purchase the same percentage of the common shares of the company as one advanced by way of loan to thecompany?

A. Yes.

Q. Since Commodore Portable Typewriters was advancing 25% of the loan Commodore Portable Typewriters, or its assignees, would be entitled to 25% of the common shares. Is that correct?

A. Yes.

Q. And were 25% of the common shares at that time of Commodore Sales Acceptance in fact

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issued in respect of the Commodore Portable Typewriters' loan?

A. I don't know whether they were issued but this is what was promised, that we will receive -- Just to explain that part to you, Mr.Shepherd: The shareholders of Commodore Portable Typewriters have subscribed to the shares of Commodore Sales Acceptance, not Commodore Portable Typewriter.

Q. Yes. Commodore Portable Typewriters advanced $25,000 against the issue of a promissory note of Commodore Sales Acceptance. Is that correct?

A. Yes.

Q. And you and Mr, Kapp, or your wives, took down the 25% interest in the shares of Commodore Sales Acceptance. Is that correct?

A. Yes.

Q. Where did the money come from to enable Commodore Portable Typewriter to loan $25,000 to Commodore Sales Acceptance?

A. Well, it could have come from Interprovincial Discount, but we were borrowing money at that time. But, it did come from our bank account, exactly.

Q. But how did it get into your bank account?

A. Through loans from the finance

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companies.

Q. Perhaps I can assist you. I put it to you that Commodore Sales Acceptance loaned the $25,000 to Commodore Portable Typewriters and Commodore Portable Typewriters then loaned the same $25,000 to Commodore Sales Acceptance. Is not that what occurred?

A. Mr. Shepherd, to answer the question yes, I couldn't because I am not sure. The only thing what I knew, we have issued a cheque of $25,000 to Commodore Sales Acceptance.

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MR. SHEPHERD: Q. You say, Mr. Tramiel, that you simply do not know from what source Commodore Portable Typewriters obtained the $25,000 to lend to Commodore Sales Acceptance?

A. No, I did not say that.

Q. What do you say?

A. I am saying it could have come from Interprovincial Discount, part of it, part of it from Commodore Sales Acceptance, or from ---

Q. Or from Commodore Sales Acceptance?

A. Right.

Q. You are saying then that you do not know whether it came from Commodore Sales or Interprovincial Discount or, indeed, where it came from?

A. No, only from those two companies it came.

Q. Are you in a position to deny -- I take it you are not -- that Commodore Portable Typewriters borrowed that money from Commodore Sales Acceptance?

A. Just, Mr. Shepherd, repeating again, if the full amount of money or part of the money -- I am not sure that the money came from those two companies or from one, and by looking into the books of Commodore we could understand very clearly exactly where it was ---

Q. Would you like to look at the books,

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Mr. Tramiel, or is that something for Mr. Kapp?

A. I would prefer if Mr. Kapp could assist you much better than I could.

Q. Did you, after having made your arrangements to be financed from Commodore Sales Acceptance, continue to be financed by Interprovincial Discount?

A. No.

Q. Were Interprovincial Discount paid off by Commodore Sales Acceptance?

A. Yes.

Q. Then is it not quite clear that the $25,000 which you say was borrowed, was not borrowed from Interprovincial Discount?

A. But, Mr. Shepherd, our company at that time, I believe we were doing in the vicinity of half a million dollars a year business ---

Q. Yes ---?

A. We always had a certain amount of money in our account.

Q. Oh, Mr. Tramiel, we are past that point. You have told the Commission that you were satisfied that this money was borrowed and it was borrowed either from Interprovincial Discount or from Commodore Sales Acceptance?

A. Because, Mr. Shepherd --

Q. That is correct, is it not?

A. Yes. Mr. Shepherd, even if that

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money was in the account, it was still borrowed money.

Q. Mr. Tramiel, let us get at it this way. Do you say on your oath that you do not know that Commodore Portable Typewriters borrowed that $25,000, which it invested inthe notes of Commodore Sales Acceptance, from Commodore Sales Acceptance?

A. I am saying that it borrowed the money either from Interprovincial or from Commodore Sales Acceptance.

Q. And you do not know from which one they borrowed it?

A. The exact amounts, no.

Q. Did they borrow anything from Commodore Sales Acceptance to your knowledge for this purpose?

A. I can't give you a yes or no answer to this, Mr. Shepherd.

Q. Is your answer "I don't know"?

A. I don't recall the exact figures involved ---

Q. I did not ask you that, I did not ask you the exact figures, Mr. Tramiel. I asked you if you were saying, if you can say, whether or not Commodore Portable Typewriters borrowed, for the purpose we are discussing, any money from Commodore Sales Acceptance?

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A. It could have been, they could have borrowed some money.

Q. I put it to you, Mr. Tramiel, that, in fact, it did. Do you not agree?

A. If you have the facts that it did and you can show me facts, I would agree, after seeing the facts.

THE COMMISSIONER: Well, Mr. Tramiel, I presume you are trying to help the Commission ---

A. I do ---

Q. --- and it would be a considerable help if you could give us an answer without our having to convince you that the answer you are going to give is the right one. We are looking for information, we are not trying to prove a case to you, you see. Now, I would have thought that, with that rather critical transaction, you may help us as to your knowledge of whether or not Commodore Portable Typewriters did borrow money from Commodore Sales Acceptance for the purpose of making that investment in the position or in the company known as Commodore Sales Acceptance?

A. Mr. Commissioner, I, I am here to give any information I can to the Commission on that, but I want to make sure that the information I am giving is correct; and if I am not sure about something I have to answer the way I did.

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Q. Then your answer is you are not sure?

A. That is right, Mr. Commissioner.

THE COMMISSIONER: You can proceed from there.

MR.SHEPHERD: Q. Do you consider it probable, Mr. Tramiel, that you would forget whether -- a company is established, Commodore Sales Acceptance, requiring $100,000 to operate, and it lends twenty-five thousand of those dollars to its principal borrower so that that borrower may re-invest the money in Commodore Sales Acceptance? Would you forget that? Would you forget whether or not that occurred?

A. The way you have said, Mr. Shepherd, it did not occur this way. I don't remember of any exact money loaned to Commodore Portable Typewriters for this purpose, investing in Commodore Sales Acceptance. That did not occur the way you have just mentioned it to me for this specific purpose.

Q. Well then, what did occur, Mr. Tramiel? Do you remember?

A. Mr. Shepherd, I am trying to answer you, the question to the best of my knowledge ---

Q. Yes ---?

A. --- it may be Mr. Kapp could give you

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an answer on this because he was involved in thefinancial transactions after the company was set up, maybe he has better knowledge of it than I do because he was involved in it as far as how it was set up exactly.

Q. Was it at the meeting with Mr. Annett and Mr. Morgan -- and do you say Mr.King too? -- at which the discussion was held of the 51%, 24%, 25% ratio?

A. In Mr.---?

Q. Annett's office?

A. Yes.

Q. And who asked you whether or not Commodore Portable Typewriters wished to take a 25% interest?

A. That particular part I don't think I was asked, I was told "This is the way it is going to be set up".

Q. Then did you make inquiry, or were you told, where the money was going to come from for you to invest?

A. If I was asked, Mr. Shepherd?

Q. Or were you told?

A. No, I was not asked and I was not told.

Q. What did you say when you were told that Commodore Portable Typewriters would advance 25% of the money, being $25,000?

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A. I have agreed to it, that Commodore Portable Typewriter will invest this $25,000.

Q. Now, when you agreed to it to what source were you looking for the money to invest?

A. Mr. Shepherd, we were borrowing moneys from previously, from Interprovincial.

Q. Yes?

A. We had a certain amount of money in our bank account.

Q. Yes?

A. If the money was invested in Commodore Sales Acceptance, after we have borrowed money from Commodore Sales Acceptance, definitely the money came from Commodore Sales Acceptance. If it was before, then it must have come from our bank account, but the money was borrowed from Interprovincial.

Q. And is this the position: Commodore Sales Acceptance, you say, may have loaned the $25,000, or part thereof, to Commodore Portable Typewriters to enable it to make this investment; but if that happened you have forgotten about it?

A. No, I am not saying that if it made --- I can't remember the whole transaction, where the money came from -- I don't --

Q. Did you not just say to me one moment ago it may have come from Commodore Sales Acceptance,

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wholly or in part?

A. Mr. Shepherd, the way you have explained it to me, yes, it may have come from Commodore Sales Acceptance.

Q. And if it did come from Commodore Sales Acceptance, wholly or in part, you have forgotten about it? You are not able to tell us about it?

A. I am answering the question the way you have asked.

Q. Well, answer that one then, please?

A. If it came from Commodore?

Q. Yes?

A. If I would know it did, I wouldn't have forgotten, but I don't know if it did. That is the reason why I don't remember.

Q. I see. It may have come from Commodore Sales Acceptance without your knowledge. Is that the position?

A. Mr. Shepherd, not without my knowledge. I have answered you before that I am not usually involved in the investing of the money, exactly where it came from. There will be no problem at all, I believe, for Mr. Kapp to answer you this question. If I could answer the question, maybe even now I could help you, but there is no reason for me to withhold information to you.

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Q. Well, Mr. Tramiel, are you satisfied that at the time Commodore Portable Typewriters invested $25,000 in the notes of Commodore Sales Acceptance, you then knew what the source of the $25,000 was, whether it was from Interprovincial Discount or from the bank account of Portable Typewriters ---?

A. From the bank account, I am sure it is from the bank account.

Q. Oh, I am equally sure it is from the bank account. You wrote a cheque, no doubt?

A. The office did, yes.

Q. Do you recall Commodore Portable Typewriters writing a cheque to Commodore Sales Acceptance for $25,000?

A. I know that they received a cheque, Mr. Shepherd ---

Q. You know who received a cheque?

A. Who received the cheque?

Q. Yes?

A. No, I don't know who received the cheque.

Q. No. You said, Mr. Tramiel, "I know they received a cheque"?

A. No, that Commodore issued a cheque ---

Q. Commodore Portable Typewriters?

A. Pardon me, yes. Commodore Portable Typewriters issued a cheque for $25,000. I have

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given the instructions to issue that cheque to the office.

Q. It would be either to Annett or to Commodore Sales Acceptance, I take it?

A. You see, you just remind me of something. I believe it was to Annett and Company.

Q. Yes?

A. But it is quite a number of years, Mr. Shepherd, and I don't remember exactly.

Q. And you cannot assist us further, other than you have already, as to where Commodore Portable Typewriters got that money to make the cheque good?

A. Only in the way I have said it.

Q. Did you attend a meeting, which Mr. Wagman described, in the office of Mr. Morgan shortly after the meeting at the Bank of Nova Scotia?

A. Mr. Shepherd, to -- I, I didn't remember it exactly, it could have been -- there were a number of meetings ---

Q. When was the next meeting you had with Mr. Morgan after the meeting in Annett's office and apart from the meeting at the Bank of Nova Scotia?

A. I don't recall the exact dates, but we had meetings I would say once a week, once every two weeks.

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Q. What reason did Mr. Morgan give for wanting a minority interest in Commodore Sales Acceptance?

A. He did not give me a reason, Mr. Shepherd.

Q. Why was Commodore Portable Typewriters asked to subscribe 25% of the borrowed money and why were you and Mr. Kapp, or your wives, given an opportunity to purchase 25% of the shares?

A. To the first question, I didn't ask Mr. Morgan; to the second question which you have asked, as our wives were shareholders of Commodore Portable Typewriters ---

Q. Yes?

A. --- and at that time we felt that this should be given to the shareholders of Commodore Portable Typewriter.

Q. But why were you given the opportunity to do this by Commodore Sales Acceptance?

A. I could not answer this.

Q. Commodore Portable Typewriters needed money, did they not?

A. Commodore Portable Typewriters?

Q. Yes? Commodore Portable Typewriters did not require any reward to borrow money from any one, including Commodore Sales Acceptance. You would have borrowed it anyway, wouldn't you?

A. Yes.

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Q. Did Mr. Morgan tell you why you were being allowed to take down 25% of the stock?

A. No, he did not.

Q. Did you ask him why?

A. No.

Q. You must have been surprised?

A. I was so surprised that I am going to be able to finance Commodore that I did not ask any further questions. One thing I did forget, and there was discussion, that was in Mr. Annett's office, on what basis -- I was trying to say, I believe it was that time that Mr. Morgan made specific rules on what basis he will lend the money, what percentages will be, and one of the securities that he asked for was for the Commodore stock, for the Commodore Portable Typewriter stock.

Q. Yes?

A. That means all the stock of Commodore Portable Typewriter. He said he "wants to have it in trust" for guaranteeing loans for Atlantic Acceptance or Commodore Sales Acceptance, etcetera, which we have done.

Q. That is to say, the answer is that Commodore Portable Typewriters guaranteed the loan of the money and you say pledged their stock with Mr.Morgan?

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A. Yes.

Q. Yes. And I suppose you had been required to explain such preceding guarantees in other lending that the company had made?

A. Yes, but not the stock.

Q. Is your recollection that Mr.Morgan got that stock assigned to him in 1959?

A. Yes.

Q. I put it to you that the minutes show that it was October, 1960 when the shares were assigned to him at the time the new directors, Messrs. Medland, Streit, and King received some shares?

A. It could have been in the minutes, but it was turned over to Mr. Morgan at the time when we got the loans.

Q. Now, when it was turned over to him, was it upon terms that if Commodore Portable Typewriters repaid Commodore Sales Acceptance its debts, then you got the shares back? Is that correct?

A. Yes.

Q. But if Commodore Portable Typewriters did not pay Commodore Sales Acceptance then what was going to happen to the shares?

A. It would be part of the security.

Q. For Commodore Sales Acceptance?

A. Yes.

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Q. But the shares weren't given to Commodore Sales Acceptance, were they?

A. In my opinion it was.

Q. They were given, in fact, to Mr. Morgan, were they not?

A. Yes.

Q. Did you consider that Mr. Morgan held them for Commodore Sales Acceptance?

A. Yes.

Q. Why is there not in existence, if there is not, some document in writing, setting out these terms respecting the shares?

A. Well I -- the only reason I would say why not is because I had full faith and respect for Mr. Morgan after discussing the -- this transaction with him, the way Mr. Annett told me who he is and what he is, that I did not feel that he will run away with the shares.

Q. What did Mr. Annett tell you about him?

A. Oh, he told me who Mr. --- who the company is, who Mr. Morgan is, where Mr. Morgan in Atlantic Acceptance is borrowing money from, who the shareholders of the companies are, and it was quite impressive.

Q. Yes. Over what period did you consider Mr. Morgan was holding these shares for Commodore Sales Acceptance?

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A. I believe all the time, but when he transferred the shares into Associated Canadian Holdings at that time I wouldn't know who he was holding it for.

Q. Just while we are on this point, I show you an exhibit, Number 322, being the minutes of a meeting of the Board of Directors of Commodore Portable Typewriters on 3rd October, 1960, said to have been signed by Helen Tramiel, Jack Tramiel, J.Aubrey Medland, William C. Streit, Harry Wagman, Carman G.King, Manfred Kapp, and Estelle Kapp. Is that correct?

A. Yes.

Q. This is the meeting, Mr. Tramiel, at which Messrs. Medland, Wagman, Streit, Solomon, Samuel and King become shareholders for the first time. Do you recall that meeting?

A. Yes.

Q. These are shares which -- and we will come to it -- you and Mr. Kapp gave up ---?

A. Yes ---

Q. -- as a bonus for certain loans made to the company? Is that correct?

A. Yes.

Q. And the minutes on page 5 of these minutes read:

"C.Powell Morgan being present then advised "the meeting that he held 109 common shares

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"of the capital stock of the company "transferred to him, in trust for the "following persons and in the amounts "stated opposite their respective "names:

"Jack Tramiel, 36 common shares.

"Manfred Kapp, 36 Common shares.

"Regina Silberman, 37 common shares."

Is that correct?

A. Yes.

Q. That does not appear to be consistent with Mr.Morgan holding these shares as collateral for Commodore Sales Acceptance, does it?

A. Well, there was no other reason why he would hold them in trust.

Q. What reason is there that the minutes would not disclose that he holds those shares as collateral for the loans of Commodore Sales Acceptance?

A. I can only answer for myself, Mr. Shepherd, that when the shares were held in trust, held in trust by Mr. Morgan, to me this was sufficient that he has held them for the security of the loan that he has made from companies that he represents.

Q. Did you at any time ever have any discussion with Mr. Morgan as to the price which would ultimately be obtained for the shares of Commodore

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Sales Acceptance?

A. No, I didn't discuss with him. At one time Mr.Morgan told me that he is going to buy, or wants to buy, the Commodore Sales Acceptance shares from us, the price will be $6.00. "I want you to turn them over to me", inthose words.

Q. And when did this discussion take place?

A. I believe it was sometime in the beginning of '60 or end of '59, something of this nature.

Q. So that we may be sure that you have the dates approximately correct, the investment was made in Commodore Sales Acceptance by Commodore Portable Typewriters by you and Mr. Kapp or your wives in respect of the shares in or about the month of February, 1959? Is that correct?

A. Yes.

Q. Do you believe that it was the same year, end of 1959, or in the first few months of 1960, that Mr.Morgan indicated that he would, wished to buy theshares of Commodore Sales Acceptance at $6.00?

A. Yes.

Q. How are you able to -- the matter is of some importance -- how are you able to fix the

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time at which this discussion took place?

A. I would say it must have been beginning of '60, because at that time I was already working inthe United States. It was on one of my trips to Toronto that he mentioned this to me.

Q. Could it have been early 1961?

A. No, it was sometime in '60.

Q. Was it in the first quarter of 1960?

A. It could have been.

Q. What do you say the earlier and later limit of the time is within which this discussion ---?

A. I would say sometime in March.

Q. Of 1960?

A. Of 1960.

Q. Where did this discussion take place?

A. In Mr. Morgan's office.

Q. Who else was present?

A. I don't think anybody else was present.

Q. Did you have any discussion at any time with any of the other minority shareholders of Commodore Sales Acceptance relating to the intended purchase price of Commodore Sales Acceptance shares?

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A. No, I didn't.

Q. Did you ever discuss it with Mr. King, for example?

A. Not about the price, what I was selling them for --

Q. What discussion did you have, apart from price?

A. Mr.King met me in the hall of 100 Adelaide Street and he just mentioned ---

Q. Yes?

A. --- to me that, that it was a good thing that he met me because he just made quite a few dollars in the sale of Commodore Sales Acceptance stock.

Q. When did this discussion take place?

A. Sometime in 1961.

Q. Would this be after the shares of Commodore Sales Acceptance were actually purchased, ostensibly by Atlantic?

A. It must have been. I really don't like to say. I didn't really even follow it up, until just lately --- to know exactly when they were purchased.

Q. Do you say then that approximately one year before Atlantic Acceptance acquired the minority interest in Commodore Sales Acceptance --- which occurred between February 1961 and April 1961 --

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Mr.Morgan told you that he wished to acquire the shares held by you and Mr. Kapp, or your wives, at $6.00 per share?

A. Yes. There is one other point --

Q. Yes ---?

A. --- that he mentioned at that particular time which was -- he did give me the reason why, and the reason was that Commodore Portable -- Commodore Sales Acceptance requires additional capital or additional money and Atlantic will have to make a substantial investment into Commodore Sales Acceptance, and that is the reason why he wants to buy those shares.

Q. Did you understand that he personally was purchasing the shares at $6.00?

A. At all times when I was speaking to Mr.Morgan, to me he was the representative of the company that he was representing.

Q. On this particular occasion what did he say as to who was purchasing these shares?

A. He didn't.

Q. He said something, you have just told us he said something about it?

A. He said, "I want to buy shares from you", or "you will sell the shares to me on this basis for $6.00 a share", and I said "Okay".

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Q. And did he indicate when this was going to happen?

A. No.

Q. And then it did not, in fact, happen until about a year after this discussion? Is that correct?

A. I found this out only in the last few months. I wasn't following it.

Q. You found out what, Mr. Tramiel, in the last few months?

A. Exact dates when it happened, the exact dates when the actual sale took place.

Q. What did you know about the sale of the shares of Commodore Sales Acceptance by Mrs. Tramiel and Mrs. Kapp, at the time it occurred?

A. I only know the time when I told Mr. Morgan, yes, I am willing to sell him those shares we sold, I did not think about it in or, at that particular time. Also I did not --- I do not know exactly what time, it could have been the time when the transaction went through, when Mr.Morgan -- and this was when I was told by Mr. Kapp, after, between one of my trips, Mr.Morgan, through Commodore Sales Acceptance, gave us a credit, not cash, but a credit to Commodore Portable Typewriters for the amount of

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money I had paid for the shares, for the debenture, which in return we didn't get the money, or shareholders didn't get the money, but we bought preferred stock in Commodore Portable Typewriter ---

Q. Yes, we will deal with the transaction in more detail, Mr.Tramiel. It is an interesting one. I just wanted to get from you a proper understanding, which I now understand, that after Mr.Morgan had this discussion, which may have occurred in March, 1960, about wishing to purchase these shares at $6.00 per share, there was no further discussion until Mr. Kapp explained to you, at some later time that the transaction had gone through?

A. Yes.

Q. Yes.

THE COMMISSIONER: Fifteen minutes.

---Short recess.

---Upon resuming:

MR.SHEPHERD: Q. Mr.Tramiel, have you now had an opportunity to consult with Mr. Kapp respecting the origin of the $25,000 which Commodore

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Portable Typewriters advanced to Commodore Sales Acceptance against a promissory note?

A. Yes, I did.

Q. And what are you able to tell us about it?

A. Well, Mr. Shepherd, Mr. Kapp advises me that the way the transaction was done, was that we have borrowed $65,000 from Commodore Sales Acceptance against the receivables, but $25,000 was repaid to Interprovincial, $25,000 was paid to Commodore Sales Acceptance, $8,000 to Annett and Company, and $7,000, or $6,000 and some odd, to Commodore Portable Typewriters.

Q. Yes, and the money which was paid to Interprovincial Discount, that $25,000, was paid in respect of the liability of Evermac to Interprovincial Discount, was it not?

A. It could have been.

Q. Do you agree that the source of the money which was invested in Commodore Sales Acceptance was a loan from Commodore Sales Acceptance?

A. Yes, I do.

Q. Now, how long had you known Mr. Morgan at the time this was done?

A. A few weeks.

Q. And is the position this, that Mr.

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Morgan had told the Bank of Nova Scotia that Commodore Sales was raising $100,000 and the Bank of Nova Scotia agreed to lend $300,000? Is that correct?

A. Yes.

Q. In fact, Commodore Sales Acceptance---?

A. Mr. Shepherd, when I say "correct", I presume so. I mean, I wasn't present at the discussion that Mr.Morgan had with the manager. When I walked into the bank, everything was arranged almost.

Q. I understood you attended the meeting which you described with the bank manager, Mr.Morgan and Mr. Annett, Mr. Wagman and others?

A. But Mr.Morgan did mention to us at one time that he had already discussed this transaction with the --- before we came to the meeting, with the bank manager.

Q. So you were not present at any discussion at which the loan of $300,000 by the bank was agreed to? Is that correct?

A. When the - in the meeting I was in, everybody was there and we signed documents, whatever documents there were to sign --

Q. Yes ---?

A. --- and to me it looked like everything

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was set up previously.

Q. But you were not sure when there was a discussion about the terms on which the Bank of Nova Scotia would lend $300,000? Is that correct?

A. It was represented like, investment in the company, so and so much ---

Q. $100,000?

A. Right, and they would loan $300,000.

Q. What the company actually did, Commodore Sales Acceptance, that company loaned $25,000 to Commodore Portable Typewriters and Commodore Portable Typewriters loaned the $25,000 back to Commodore Sales Acceptance, which made up part of the $100,000 raised by Commodore Sales Acceptance? Is that correct?

A. Yes.

Q. Now, I ask you again why did Mr. Morgan, under those circumstances where he was finding all the money, allow you and Mr. Kapp or your families, to acquire a 25% interest in Commodore Sales Acceptance for a $100,000?

A. Mr. Shepherd, it could have been, I say again, after knowing what the future of Commodore Portable Typewriters would be, that I could have asked Mr. Annett if I could make this

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investment.

Q. Yes?

A. But the exact details, even I don't -- I don't recall, it could have been because after discussion just now, it could have been that way, that could be we asked, maybe I asked --

Q. And do you consider that you did ask Mr. Annett?

A. Yes.

Q. Then why would Mr. Annett agree to it then? You see, here is the position, Mr. Tramiel: Atlantic Acceptance advances $51,000, actual dollars for notes and it is allowed to subscribe at 10 cents per share in 51% of the stock. Is that correct?

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A. Yes.

Q. Annett, or for the moment let us say Annett, subscribed or loaned to Commodore Sales Acceptance, $24,000 and areallowed to purchase at 10 cents a share, 24% of the stock? Is that correct?

A. Yes.

Q. Now, Commodore Portable Typewriters lends $25,000 to Commodore Sales Acceptance but obtains the money to do so by borrowing it from Commodore Sales Acceptance, and in return for that, you and Mr. Kapp, or your families, are allowed to subscribe at 10 cents a share for 25% of Commodore

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Sales Acceptance? Is that correct?

A. Yes.

Q. Do you agree that this was an extremely generous gesture on behalf of Commodore Sales Acceptance towards you and Mr. Kapp?

A. Yes.

Q. Did Mr. Morgan or Mr. Annett assert why this benefit was being conferred upon you?

A. Mr. Shepherd, to answer your questions, he, to me, the most important thing at that time was to be able to get the financing for Commodore Portable Typewriters.

Q. I appreciate that, Mr. Tramiel, but my question was directed to the fact that you got more than financing for Commodore Portable Typewriters, you got a 25% interest in Commodore Sales Acceptance on terms more favourable than those afforded to the Annett Company or Atlantic Acceptance; and my question was directed to why that occurred?

A. We could -- well, I said before, we could have asked if we could participate. We dealt with Mr. Annett because I believed the loan was made through Mr. Annett, but our investment was made through Annett and Company, not directly to Commodore Sales Acceptance ---

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Q. Yes---?

A. --- and why exactly we received it, I don't know.

Q. Well, is not your answer then you don't know why you received this opportunity?

A. Right.

Q. Now, I wish to give you an opportunity to consider whether inadvertently you fell into error in telling me that Commodore Business Machines had carried on business prior to meeting Mr.Morgan and, I show you what purports to be the corporate income tax return of Commodore Portable Typewriters --- and I should have used that name earlier in this sentence -- as at 30 December, 1959, purported to be signed by Mr. Kapp. Is that Mr.Kapp's signature?

A. Yes.

MR.SHEPHERD: Mr.Commissioner, perhaps I should offer this in evidence.

THE COMMISSIONER: Yes.

MR. SHEPHERD: It is the corporation income tax return of Commodore Portable Typewriter Company Limited, being the return for the fiscal period ended January 31st, 1959, signed by Mr. Kapp inhis capacity as director, to which is annexed a number of documents - a number of statements and documents.

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THE COMMISSIONER: I will have to take a minute just to check that number -- 3635.

---EXHIBIT NO. 3635: Corporation Income Tax return for Commodore Portable Typewriter Limited for the fiscal period ending January 31, 1959, signed by Mr. Kapp as director, to which is annexed statements and documents.

MR.SHEPHERD: Thank you, sir.

Q. I direct your attention,Mr. Tramiel to a financial statement of Commodore Portable Typewriters Limited for the period from incorporation on April 10th --- correction -- October 10, 1958, to January 31, 1959, and I observe that it has been signed by you, has it not?

A. Yes, correct.

Q. And I call your attention to one of the observations on page 3 in this statement reading:

"Commencing of selling activity did
"not begin until February 1959, all
"expenses incurred in preparation
"of facilities have been deferred
"to the following period."

Is that correct?

A. Yes ---

Q. Is it possible that you were

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mistaken in recalling that Commodore Portable Typewriters had been selling the machines to which you referred and that the fact is up to the beginning of February 1959 Commodore Portable Typewriters had not actually sold anything?

A. In my knowledge is that we had started to sell those portable typewriters directly through Commodore Portable Typewriters --- if I could look at this --

MR.SHEPHERD: Yes.

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A. Mr. Shepherd, this document shows we did not start.

Q. So you started Commodore Portable Typewriters actively selling in February of 1959, that is not correct?

A. Yes.

Q. That is at that time Mr.Morgan had his discussions with you as a result of which the arrangements respecting the 25% interest in the shares of Commodore Sales Acceptance for the benefit of yourself and Mr. Kapp or your families were made, is that correct?

A. Yes, Mr. Shepherd, as far as the activity of Commodore Portable Typewriter it may be that we started doing business at that time but I definitely was selling machines before this. Not actually delivering machines, but showing machines to customers, taking orders on machines, etc., maybe there was no actual business transacted.

Q. That ----

A. Because the large department stores----

Q. Go ahead, please?

A. The large department stores in this city or on this continent prepare everything at least six months in advance. If you sell them something today you deliver it in six months from today.

Q. Would you agree, Mr. Tramiel, that

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the financial statement of the company affixed to its income tax returns does not indicate that the facts were as you have asserted they might have been?

A. That the selling activity was ---

Q. Yes?

A. My interpretation, the selling activity, that means invoiced from the company.

Q. Yes?

A. Or if you show the machine around to your customers, if this is selling, to me as a salesman it is selling, but for the company it is actually when they invoice the machine.

Q. Let me see if I understand that. Do you say that Commodore Portable Typewriters may have taken its machines about to customers and may have obtained orders for such machines?

A. Verbal orders.

Q. Well, is there some difference between verbal orders and written orders?

A. Yes.

Q. I see. Verbal orders for machines prior to February 1959, is that correct?

A. Yes.

Q. But do you say that it is still accurate to assert in a financial statement attached to an income tax return that selling activity did not commence until February, 1959?

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A. Yes, sir.

Q. Yes, this first transaction with Mr.Morgan led to an association which extended over many years, did it not?

A. Mr. Shepherd, looking at some of the papers here ---

Q. Yes?

A. ---it does show that we have paid during that period of time from October till January custom duties, etc., for machines we brought in.

Q. Yes?

A. So this just must have been for sample machines, a number of machines that I did show around to customers.

Q. Yes. I don't think anyone was suggesting you might not have imported some machines. Your statement was in your financial statement there was no selling activity, is that not correct?

A. Yes, this, I explained, is the selling activity to showing around to the customers.

Q. I heard what you said on thepoint, sir.

A. Yes.

Q. Now, you commenced an association which extended over some years with Mr.Morgan, did you not?

A. Yes.

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Q. What did you think of Mr. Morgan?

A. Highly respectable man.

Q. And over what period of time did you hold that view?

A. Till sometime in the end of June.

Q. Of what year?

A. 1965.

Q. Yes, did you have disagreements with Mr. Morgan prior to June of 1965?

A. On one or two occasions.

Q. Going into the detail, what occasions are we speaking of?

A. I believe it was sometime in April.

Q. Of 1965?

A. Of 1965.

Q. Would that be the earliest one?

A. Yes.

Q. Up to April, 1965, then your relations with Mr.Morgan were always friendly and you were in agreement about your common ventures, is that correct?

A. Well, when you say "common ventures" I had no common ventures with Mr. Morgan.

Q. I see. Well, let me put the question to you this way and perhaps we could return to the other matter, later. Prior to April, 1965, did you disagree with Mr.Morgan about anything he did?

A. I did not.

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Q. What role did you or Mr. Kapp play in the business ventures of Commodore Sales Acceptance during the remainder of 1959 after Commodore Portable Typewriters made the$25,000 investment to which we have referred?

A. I did not help in any way.

Q. What about Mr. Kapp, what did he do for the company?

A. I believe that Mr. Kapp worked together with Mr. Wagman just to explain to him how he transacted the business with Interprovincial and how it was done and he worked with our books, how it was done and the securities.

Q. This would be so Commodore Sales Acceptance might advance the required money to pay out Interprovincial, is that correct?

A. And to make sure they get the proper security for the loans for the future.

Q. Mr. Kapp would be acting on behalf of Commodore Portable Typewriters in such discussions, would he not?

A. Yes.

Q. Mr. Wagman was acting for Commodore Sales Acceptance, of course?

A. Yes.

Q. Did Mr. Kapp, to your knowledge do any work or perform any services for Commodore Sales Acceptance itself?

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A. Not to my knowledge.

Q. And did you?

A. No.

Q. After your initial contribution to the loans and capital of Commodore Sales Acceptance, Mr. Tramiel, I put it to you that from time to time thereafter Commodore Sales Acceptance raised additional funds by attracting loans from others and selling shares to others. Was Commodore Portable Typewriters afforded an opportunity to advance additional moneys?

A. The only occasion that I have is when Mr. Morgan advised me that Atlantic will have to invest additional moneys to Commodore Sales Acceptance and he wants to buy the shares from us.

Q. And this you said was sometime in early 1960?

A. Correct, yes.

Q. But did Annett or did Mr. Morgan ask you at any time during 1959 or during the first quarter of 1960 whether Commodore Portable Typewriters wished to lend more money and receive new notes plus a right to subscribe for additional shares?

A. Not as I can remember.

Q. Where were the shares - correction - the notes of Commodore Portable Typewriters physically,

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that is the notes issued by Commodore Sales Acceptance?

A. I really don't know, Mr. Shepherd.

Q. Would it be fair to presume they would probably be held by Commodore Sales Acceptance as security for the loan, I suppose?

A. It could, but the way I mentioned before we have given the receivables for the $65,000 and we have given different securities for this $25,000 than the note.

Q. In whose name did the shares which were issued for 25% of the initial capitalization of the company stand?

A. I believe in our wives'.

Q. Were the shares, to your recollection, actually registered in the names of your wives originally? My information is they were not, they were registered in the name of Annett, does that agree with your recollection?

A. Yes.

Q. Why were those shares registered in the name of Annett?

A. The only way I could answer you is because the transaction was donethrough Annett and Company.

Q. Who physically had the possession of those shares according to your recollection in 1959?

A. Well, we didn't.

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Q. Neither you nor your wives had?

A. We didn't have them.

Q. Then is it correct that among you and Mr. Kapp and your wives additional shares of Commodore Sales Acceptance were obtained so that ultimately you had in all 5,000 shares?

A. Well, I do recall that there was -- some shares -- some additional shares issued for services performed.

Q. Yes.

A. And I think some shares were given to Mr. Kapp or his wife or something of this nature.

Q. Yes, I believe you are correct,Mr. Tramiel. I show you the minute book of Commodore Sales Acceptance, Volume 1, being the minutes of a meeting of the 23rd of December, 1959, Exhibit 60, I appreciate that you would have no direct knowledge of the minutes but in these minutes relating to what you have just said appears in paragraph 2 of the first resolution:

"That 6,500 shares without par value
"of the Company be and the same are
"hereby allotted as follows:
"125 shares to Carman G.King;
"125 shares to Douglas R.Annett;
"125 shares to Louis W. Spencer;
"250 shares to Manfred Kapp;

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"1,000 shares to Harry Wagman;

"4,875 shares to Atlantic Acceptance

"Corporation Limited;

"and the Directors of this Company --"

That is to say Commodore Sales Acceptance:

"do determine that the consideration

"for which the said shares are to be

"issued shall be the following services

"rendered to the Company during the

"year 1959."

Again, Mr. Kapp's name: --

"TO Manfred Kapp/For Public Relation

"services."

Is that correct, have I read it correctly?

A. Yes.

Q. Yes, could you assist me at all on this? I understood you to say that Mr. Kapp didn't perform any services for the company?

A. I did mention he did help Mr. Wagman getting what information thatwas necessary as far as factoring.

Q. In respect of the loans of Commodore Portable Typewriter to Interprovincial Discount and also in respect of the security which Commodore Sales Acceptance should obtain for the loans to Commodore Portable Typewriters, is that correct?

A. That is what I remember.

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Q. Is it?

A. That is the question - Mr. Kapp may know more about it.

Q. Can you assist us any more on this point of why Commodore Sales Acceptance would now issue those shares free to Mr. Kapp?

A. No, Mr. Shepherd.

Q. Did you and Mr. Kapp thereafter in virtue of your partnership regard yourselves as each owning one half of those shares?

A. Yes we did.

Q. And I put it to you and we will go through the documents if you wish, but perhaps it won't be necessary, that on the same date as that occurred the company, Commodore Sales Acceptance, then allowed all its shareholders to purchase new stock in the ratio of three shares for each one share theretofore held at a price of 10 cents per share and Mr. Kapp, in virtue of his ownership of the 250 shares to which reference has just been made, did subscribe for an additional 750 shares giving himself 1,000 shares and Annett subscribed on behalf of Mrs. Tramiel and Mrs. Kapp for 3,000 new shares at a price of 10 cents per share in virtue of their right to subscribe at the ratio of three for one arising out of their possession of 1,000 shares which they acquired

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at the beginning of the company. Do you recall that substantially that transaction took place?

A. I don't recall that exact transaction, Mr. Shepherd.

Q. Do you recall that when the dust settled, as it were, Mr. Tramiel, Mrs. Kapp and Mr. Kapp, acting for himself and you had in the aggregate 5,000 shares of Commodore Sales Acceptance?

A. Well, six -- 25,000 shares.

Q. No, this is the very point I want to discuss with you, Mr. Tramiel, at six dollars per share for 5,000 shares it is of course, $30,000?

A. Right.

Q. Yes, is that not correct, you had in the aggregate 5,000 shares?

A. Well, the exact amount of shares what we had, Mr. Shepherd, I don't recall at the present moment, but I do remember we received $25,000 for our total amount of shares.

Q. And wasit your belief that you were being paid at the price of $6.00 per share?

A. Yes, sir.

Q. What became of the thousand shares which Mr. Kapp had and which he was holding as a partnership asset for himself and for you after the gift of these shares to him to which we have just

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referred?

A. Well, as I know, Mr. Shepherd, we never held personally, we never had personally any shares in our possession. The shares were held with the lawyer or with Annett or with Mr. Morgan.

Q. Do you recall with whom they were held?

A. No, I don't.

Q. Is it your understanding that Mr. Kapp never did get the thousand shares, never did get physical possession of the thousand shares to which we have just had reference?

A. As far as I recall it, no.

Q. Did Mrs.Tramiel or Mrs. Kapp ever get physical possession of the 4,000 shares to which we have just referred?

A. No they did not.

Q. Now, the minutes of Commodore Sales, Mr.Tramiel, indicates certain transfers of these shares and perhaps you can assist me. The minute shows that on the 29th of January, 1960, Mrs. Tramiel and Mrs. Kapp have transferred into their name 1500 shares each, an aggregate of 3,000 shares. Do you recall that transaction?

A. No, I don't recall this.

Q. This would be, I put it to you, the 2,000 shares to which Mrs. Tramiel and Mrs. Kapp

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became entitled at 10 cents a share in virtue of the arrangement we discussed a moment ago, whereby existing shareholders could buy at the ratio of three to one at 10 cents per share, you don't recall that?

A. The exact details, I don't recall.

Q. Then the minute of the company shows on the 24th of August, 1960 that there are registered in Mrs. Tramiel's name and in Mrs.Kapp's name each, 2,000 shares which is the aggregate of the 4,000 shares to which they would appear to be entitled, do you recall that being done at all?

A. No, Mr. Shepherd, I don't recall it.

Q. Mr.Kapp's shares, however, I put it to you, appear still to be in the hands of Annett to the number of 1,000 shares. That would appear to be in agreement with what you have already said that Annett or someone held Mr. Kapp's shares, is that correct?

A. But I believe also the wives' shares.

Q. Yes, yes. So you are saying that while it may be that the share records of Commodore Sales Acceptance show that 2,000 shares are registered inthe name of Mrs. Tramiel and 2,000 shares are registered in the name of Mrs.

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Kapp and Mr. Kapp has subscribed for 1,000 shares that in fact none of you had physical possession of those shares, is that correct?

A. That's right.

Q. Now, we are speaking of 5,000 shares and in addition to that, Commodore Portable Typewriters still has as an asset $25,000 in principal amount of notes, is that not correct?

A. Yes.

Q. Yes, did Mr. Morgan or anyone at Annett ever inform you that Atlantic Acceptance had agreed in or about the month of November, 1960 that its president, Mr. Morgan, should redeem those notes or acquire those notes for Atlantic by issuing 75 common shares of Atlantic for each thousand dollars principal amount of notes?

A. Nobody advised me about this transaction.

Q. When did you first learn that at a price of $20 per share Atlantic was in fact buying 150% of the principal amount owing on the notes for the surrender of the notes?

A. After the transaction was completely made.

Q. How did you learn?

A. The exact details even then I didn't learn.

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Q. Who made some comments to you about it?

A. At the time it was Mr. King, that day when I met him, that he had made some money and it was more than the $6.00 a share that I had received.

Q. Yes, and this was, as you say, after the whole thing had finished, is that correct?

A. Yes.

Q. Now, I wasn't dealing with the shares, Mr. Tramiel ---

A. No.

Q. But rather with the notes?

A. Yes.

Q. When did you first learn that those notes were redeemed at 150% of face value?

A. I personally learned this when the Commission -- in the newspapers.

Q. Yes. Well now, Commodore Portable Typewriters has a note of $25,000 payable by Commodore Sales Acceptance, what happened to it?

A. We have received a credit, Commodore Portable Typewriter has received a credit from Commodore Sales Acceptance for $25,000 for the shares which our wives held.

Q. Yes.

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A. And $25,000 for the debenture, for the note what Commodore Sales Acceptance has issued.

Q. Who was the first person to speak to you or to your knowledge to anybody in Commodore Portable Typewriters about this arrangement, let's deal with the notes first?

A. I only heard this from Mr. Kapp.

Q. What was physically done so far as you were aware with the note of Commodore Sales Acceptance payable to Commodore Portable Typewriters?

A. I don't recall that we had the note personally in our possession, if Commodore Portable Typewriter had the note.

Q. Yes?

A. If they would have had they would have turned it over at the time we got the credit note from Commodore ----

Q. Was the name "Netherlands Overseas Securities" mentioned to you in this connection by any ---

A. Not at that time to me.

Q. Yes .

A. Mr. Kapp did mention to me, during the session of the Commission that Netherlands Overseas' name came up once, Mr. Kapp reminded me and reminded himself that this

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was a transaction we had dealings with, this was $25,000 which they have paid.

Q. Now, do I understand you to say that if Commodore Portable Typewriters surrendered either physically or notionally its right to that $25,000 note to Netherlands Overseas Securities in return for a reduction by Commodore Sales Acceptance in the debt which Commodore Portable Typewriters owed to Commodore Sales Acceptance in the amount of $25,000 you never heard about that until this Commission began, is that correct?

A. Yes, it is.

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MR. SHEPHERD: Q. What about the shares of Mrs. Tramiel and Mrs. Kapp, what did you hear was done with those shares?

A. What I heard is that we have received -- When I say "we", Commodore Portable Typewriter received a credit note for $25,000. We did not get any cash.

Q. In return for what?

A. For the shares. We got the credit note for the $25,000. Commodore Portable Typewriters received a credit note; in return we have subscribed for a number of preferred shares in Commodore Portable Typewriter for the return of the $25,000.

Q. When did you hear for the first time that Mrs. Tramiel and Mrs. Kapp no longer owned the shares of Commodore Sales Acceptance?

A. At the time when we got that credit note.

Q. And from whom did you learn it?

A. From Mr. Kapp.

Q. Did you have any discussion with Mr. Morgan about this?

A. No. The only discussion we had is, like, the way he recommended how we should get paid.

Q. Yes?

A. For the shares, and how we will give

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the credit note and how we will get the preferred stock.

Q. When did you learn those shares got into the hands of Netherland Overseas Securities?

A. So far as Netherland Overseas is concerned I didn't learn until lately.

Q. By "lately" you mean since this Commission began?

A. Right.

Q. What did you understand happened to the 1000 shares of Commodore Sales Acceptance to which Mr. Kapp was entitled and which he was holding as a partnership asset? Perhaps not holding physically.

A. I didn't know the exact amount of shares what we had, and to myself there was no distinction between the thousand and the rest of the shares. I thought they were all in one group and we received for the shares that we held between -- our wives held, $25,000. To me the amount of trust that I had in Mr. Morgan, it didn't even come into my mind to check on in any way, in any form.

Q. Indeed, Mr. Tramiel, the whole of what was received by Mrs. Tramiel and Mrs. Kapp, except for $100, was profit, was it not?

A. Yes.

Q. And you first learned that they did

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not have any shares but Commodore Portable Typewriters had received a credit when Mr. Kapp told you after the event. Is that correct?

A. Yes.

Q. Did Mr. Kapp tell you what Mr. Morgan's knowledge of the matter was, so far as he knew?

A. Well, this was a time when we were told how we will get this $25,000 in preferred stock of Commodore.

Q. Perhaps you can assist me on that. Who told you?

A. Mr. Morgan told us, first, Commodore Portable Typewriter was still in need of money and he will give a credit note to Commodore Portable Typewriter in return and we would be entitled to take or be issued so many preferred stock to our wives and to ourselves.

Q. You say that you had a discussion with Mr. Morgan and Mr. Morgan said that?

A. Mr. Shepherd, I don't know if it was a discussion. The whole idea was that at any time during that period we didn't receive no cash --

Q. Yes?

A. -- and when it came to any financing or when it came to any money transactions Mr. Morgan was our adviser, how the thing should be done.

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Q. Yes?

A. Now, like I said before, when he mentioned this is the way it is going to be done, I didn't even question it in any way. If there was a discussion or I was told at this moment, I don't recall.

Q. Then, do you think the word "discussion" is inappropriate? May I say that at some point Mr. Morgan gave his instructions as to what was to be done with the shares which were the property of Mrs. Tramiel and Mrs. Kapp. Is that correct?

A. It could be. Yes.

Q. What did he tell you to do?

A. To me, personally?

Q. Yes.

A. He didn't tell anything; he told me this some time in 1960, that he intends to buy those shares for $6 a share. I didn't hear about those shares any further till the time I knew we were getting a certain amount of preferred stock from Commodore Portable Typewriter.

Q. You said something about Mr. Morgan telling you what entries to make?

A. Not entries, he never would tell me. It was in discussions with Mr. Kapp I knew about it, that's why I say I knew about it. I am not sure whether it was a discussion.

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Q. Who told you that Mrs. Tramiel and Mrs. Kapp did not own any shares in Commodore Portable Typewriters but, instead, Commodore Sales Acceptance had a credit from Commodore Portable Typewriters?

A. Mr. Kapp did.

Q. And do I understand you never had any other discussion with Mr. Morgan about it, other than the discussion in or about March of 1960 when he told you he wanted to buy the shares?

A. I never had any other discussion.

Q. And you never knew of Netherland Overseas Securities' involvement in the matter at any time until this Royal Commission began?

A. That is right.

Q. What, in fact, was done? Perhaps you can assist us on this: Was this Commodore Sales Acceptance, having reduced its loan to Commodore Portable Typewriters by $25,000, and this fact being related in some manner to the surrender of shares by Mrs. Tramiel and Mrs. Kapp, the effect was that Mrs. Tramiel and Mrs. Kapp had paid a debt of Commodore Portable Typewriters. Is that not correct?

A. Yes.

Q. Therefore, Commodore Portable Typewriters owed Mrs. Tramiel and Mrs. Kapp $25,000. Is that correct?

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A. Yes.

Q. Therefore, Commodore Portable Typewriters issued to Mrs. Tramiel and Mrs. Kapp preference shares to the value of $25,000. Is that right?

A. That is correct.

Q. And, subsequently, and we will come to it, those shares were redeemed by Commodore Portable Typewriters and common shares were issued in lieu. Is that correct?

A. That is correct. During that whole period of time our wives, or we, still -- even the preferred stock we didn't have it in our possession.

THE COMMISSIONER: Q. Excuse me, you are talking about the shares of Commodore Portable Typewriters?

A. Yes.

Q. You say you did not have those in your possession?

A. No, sir.

MR. SHEPHERD: Q. Did Mr. Kapp discuss with you the question of what happened to the additional one thousand shares of Commodore Sales Acceptance which was not owned by Mrs. Tramiel or Mrs. Kapp but was owned by Mr. Kapp himself?

A. I don't recall of any discussions what I had with him.

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Q. Was any payment ever made by Mr. Morgan, or anyone else, in connection with that one thousand missing shares, so far as you are aware?

A. No, I don't recall any.

Q. Is it your position, then, that Mrs. Tramiel and Mrs. Kapp surrendered their interest in the shares of Commodore Sales Acceptance in return for the cancellation of $25,000 worth of debt of Commodore Portable Typewriters and that the remaining one thousand shares issued to Mr. Kapp were simply not heard of again?

A. My recollection is that all the shares, including the exact amount I don't recall, but all the shares were for the cancellation of the $25,000.

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Q. If we are talking of 5,000 shares, Mr. Tramiel, and I will not stop and go through the books now but clearly we are, you did not get $6, you got $25,000 for 5,000 shares, $5. Is that correct?

A. Right. Mr. Shepherd, I, speaking for myself, didn't know the exact amount of shares our families held. I was not involved in the splits of the three to one, or whatever it is. So, we were getting so much money for all the shares held.

Q. Is the person to whom questions should be directed on this matter Mr. Kapp, then?

A. He might be of more assistance. He

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might be.

Q. Now, what happened to Commodore Portable Typewriters from 1960 on? Did it prosper?

A. Yes, it did.

Q. What was it doing?

A. Well, we went into the assembly, then, of portable typewriters. We got a licence from the manufacturer that we were buying the machines to assemble.

Q. Is this the manufacturer in Czechoslovakia?

A. Yes.

Q. Were you importing the necessary parts of the machine from Czechoslovakia and assembling them here into complete machines?

A. Yes,sir.

Q. And where were you selling them?

A. First in Canada and, then, we extended to the United States.

Q. You told me that Type Sales asserted a claim to an interest in Commodore Portable Typewriters upon the ground which we discussed. What became of that claim, what did you do when you heard of the claim?

A. I immediately went to Mr. Morgan.

Q. What year is this?

A. '59.

Q. Yes?

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A. I believe it was '59.

Q. Yes. And what happened?

A. And I advised Mr. Morgan what the claim is. I even got a writ.

Q. Yes?

A. From Type Sales. One of their partners was a lawyer. And after discussing it with Mr. Morgan, Mr. Morgan advised me that I should leave this up to him and he would handle it.

Q. Yes.

A. Which I really appreciated at that particular time because we were very busy in the assembly of these portable typewriters, and the selling. He did have this discussion with Mr. Kovin.

THE COMMISSIONER: Q. Who is it, again?

A. Kovin.

Q. K-o-v-i-n?

A. Yes.

MR. SHEPHERD: Q. Is Mr.Kovin a principal of Type Sales in the United States?

A. He was. And Mr.Morgan, I believe, engaged a lawyer in the city here.

Q. Was that Mr. Spencer?

A. No. Mr. MacKinnon.

Q. Mr. Bert MacKinnon?

A. Yes.

Q. Yes?

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A. And after a while I heard that it was settled. And a settlement was arranged for a certain amount of money.

Q. Was it $20,000?

A. Approximately.

Q. That is to say -- Was the action by Type Sales against Commodore Portable Typewriters?

A. I know it was also against us, personally.

Q. And you spoke to Mr.Morgan and Mr. Morgan took over the conduct of the matter. Is that right?

A. Yes.

Q. And did Mr. Morgan employ the solicitors on your behalf?

A. Yes, sir.

Q. And did Mr.Morgan approve the settlement?

A. Yes, I believe that -- The solicitor only discussed it with Mr. Morgan.

Q. And did Commodore Sales Acceptance advance the required money to enable the settlement to be made?

A. I believe they did.

Q. When did you hear that it had been settled?

A. A few months afterwards.

Q. Who told you?

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A. Well, I believe I received a release, or something of this kind. I believe it was Mr. Kapp or Mr.Morgan.

Q. Did Mr. Kapp take a more active part in this settlement than you or did you both leave it to Mr.Morgan to decide?

A. We both left it to Mr. Morgan to decide because it was a financial matter.

Q. Did Mr.Morgan have an interest in Commodore Portable Typewriters, a beneficial interest as a shareholder, at this time, apart from holding shares in trust as you assert for Commodore Sales Acceptance?

A. No, he did not.

Q. Why would Mr. Morgan take on himself this task of instructing solicitors and, generally, conducting the defence of the claim through solicitors and making the settlement?

A. It was one of the reasons, Mr. Shepherd, why I was so grateful to Mr. Morgan. That he helped me out in circumstances of this nature.

Q. Did you regard it, apart from being grateful, as an incomprehensible thing for him to do?

A. I didn't understand that word.

Q. Did you regard it as a strange thing for a total stranger to this firm, other than as a principal of a company lending money to the

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company, to take on such a task?

A. No, I believed at that time that Mr. Morgan knew the business of Commodore Portable Typewriters. We were very -- We had a very small staff. I always explained to him I knew very little about the legal matters. There wasn't anything which was done in Commodore Portable Typewriters which he didn't know of.

Q. Had any discussions been had between you and Mr.Morgan prior to the end of 1959 wherein it was agreed that Mr.Morgan would acquire, personally, an interest in Commodore Portable Typewriters?

A. Prior?

Q. I am sorry?

A. Did you say "prior to 1959"?

Q. No, during 1959.

A. No.

Q. So, his act in taking on the conduct and settlement of this rather dangerous claim was done out of kindness, I suppose, was it?

A. And of protecting a client.

Q. And the first you knew it had been settled for $20,000 was when you got the release in the mail some time after the settlement had been made?

A. Yes, sir.

Q. Did you think the claim was avalid one?

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A. No.

Q. Were you upset that Mr. Morgan, a stranger to this transaction, had taken it upon himself to settle a claim which you did not consider valid for $20,000?

A. Whatever Mr. Morgan has done did not look strange to me; I felt that he has far more experience in those matters than I do.

Q. Did Mr. Morgan indicate to you why he thought, if he did, that this claim to an interest in Commodore Portable Typewriters was sufficiently valid to warrant payment of $20,000?

A. He felt -- We had a discussion at some time, I don't recall the exact date, Mr. Morgan mentioned to me it's better off to settle it for a certain amount of money than to have court involvements with Commodore Portable Typewriter, especially when you are borrowing money, Commodore Portable Typewriter borrowing money from Commodore Sales Acceptance.

Q. Did you consider that Mr.Morgan was conscientious in protecting the interests of Commodore Sales Acceptance?

A. Yes.

Q. I put it to you, Mr. Tramiel, that Commodore Portable Typewriters agreed in its minutes, and I will be glad to look it up for you if you wish, to give to Commodore Sales Acceptance

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a floating charge debenture which would give security to Commodore Sales Acceptance and, thereafter, Commodore Sales Acceptance loaned to Commodore Portable Typewriters sums in the order of $800,000, when it was discovered that through inadvertence or oversight Commodore Portable Typewriters had never given such security to Commodore Sales Acceptance and a meeting was especially held for the purpose of authorizing the giving of such security. Do you recall that?

A. I don't recall that, sir.

THE COMMISSIONER: Two-thirty.

---Whereupon the hearing adjourned at 12:58 p.m. until 2:30 p.m.

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---Upon resuming at 2:34 p.m.

MR. SHEPHERD: Mr. Tramiel, we were dealing just before lunch with the question of whether Commodore Sales Acceptance took care to get security from Commodore Portable Typewriters. Have you now had an opportunity to look at the minutes of a meeting of Commodore Portable Typewriters on the 6th of January, 1961 at which it is said that you and Mr. Kapp and Mr. Wagman were present, which minutes bear the signatures of yourself and Mr. Kapp?

A. I did see those minutes.

Q. Yes. And the minutes say in part:

"The President --"

that would be yourself --

"--advised the meeting that notwithstanding
" a resolution of the board of
"directors at a meeting held on the
"3rd day of October, 1960 authorizing
"the president and secretary-treasurer
"of the company to execute a floating
"charge on all the assets of the
"company to Commodore Sales Acceptance
"to secure advances then made or to be
"made to the company up to $500,000,

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"never, in fact, was such a
"floating charge executed, and that
"the company was as of January 6th,
"1961 indebted to Commodore Sales
"Acceptance in the amount of
"$877,588.47 for previous advances
"made to the company and that the
"said Commodore Sales Acceptance
"Limited had requested of the company
"a floating charge on all the assets
"of the company"

I am ending the quotation, "which floating charge was authorized".

Does that accurately record what occurred at the meeting?

A. I don't recall the exact meeting, but the minutes said that.

THE COMMISSIONER: That is exhibit --?

MR. SHEPHERD: That is Exhibit 322, Mr. Commissioner.

THE COMMISSIONER: Thank you.

MR. SHEPHERD: Q. Mr. Tramiel, the minutes of Commodore Portable Typewriters for the 9th of October, 1960 indicate that a sum of money was loaned to the company by Mr. Medland, Mr. Streit and Mr. Carman King; and Mr. Medland, according to the records of the company, loaned $50,000 as did Mr. Streit,

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and Mr. Carman King loaned $25,000. Do you recall those loans being made?

A. Yes, I do.

Q. What discussions or arrangements were made about such loans?

A. Commodore Portable Typewriters business has increased quite substantially ---

Q. Yes --?

A. --- and Mr. Morgan at one occasion told me that he believed we have to get some outside money into the company ---

Q. Yes --?

A. -- and he made, thought he will make some arrangements of bringing in some new capital.

Q. And was it Mr. Morgan then who introduced Mr. Medland, Mr. Streit and Mr. Carman King to the company and caused them to loan money?

A. Yes.

Q. Then the minutes of the company as of 3rd October, 1960 indicates that a number of shares theretofore held in the names of Mrs. Kapp and Mrs. Tramiel were transferred and in part they were transferred to Mr. Medland, William C. Streit and Mr. Carman G. King, Mr. Medland receiving 20 common shares, which is 10% of the company;

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Mr. William C. Streit receiving 15 common shares, which is 7 1/2 per cent of the company; and Mr. Carman G. King receiving 8 common shares, which is 4 per cent of the company. Do you recall those transfers being made?

A. Yes, I do.

Q. And did Mr. Morgan have some discussion, or did anyone have some discussion, as to why these shares were transferred to these persons?

A. Well, Mr. Morgan told me that to be able to get those loans for the company he recommends that we could give these people a bonus.

Q. I take it then that those shares were a bonus or an extra inducement to these persons to lend, in the aggregate, $125,000?

A. Wasn't it more than 125?

Q. I think not, Mr. Tramiel, but you may be quite right. What is your recollection of the matter?

A. I believe it was something like one hundred -- $250,000 but I am not sure.

Q. I see. Now, on the same day there were these transfers made from Mrs. Kapp : to Carl M. Solomon, 23 common shares; to

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Harry Wagman, 20 common shares; to David M. Samuel; 3 common shares; and to C. Powell Morgan 10 common shares. The aggregate of all the shares outstanding then was 200 shares. Why were these transfers made?

A. Those transfers was made on the recommendation of Mr. Morgan.

Q. Was Mr. Solomon, so far as you are aware, the beneficial owner of the three common shares?

A. I did not discuss it with Mr. Solomon but the instructions were to transfer to him on those basis from Mr. Morgan.

Q. Can you say whether you have any knowledge as to whether Mr. Harry Wagman was beneficially to be the owner of 20 shares, being 10 per cent of the company placed in his name?

A. I would answer the same as Mr. Solomon.

Q. And what about Samuel's three common shares, so far as you are aware, were they to be his property beneficially?

A. I know that those gentlemen had a small amount of shares when the split was made, they had about five hundred or one thousand shares which was given for the

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services they did for the company instead of getting paid legal fees or something of this nature. It was a small amount.

Q. Was it Mr. Morgan who recommended all of these transfers?

A. Yes, sir.

Q. Did he state for what consideration Messrs. Solomon, Wagman and Samuel were receiving shares from you?

A. No, sir.

Q. And did you enquire into it at all?

A. No, I did not.

Q. Then, will you take my addition that the result of this is that there now is standing in the name of Mr. Morgan, as a result of a transfer authorized at this meeting, 109 common shares, which is 54 1/2 per cent of the company, which Mr. Morgan asserts he holds in trust for yourself, Mr. Kapp and Mrs. Silverman equally, and the remaining interest of 45 per cent-odd has been given up by you in consideration of the loans from those persons who made loans and upon the instructions of Mr. Morgan with respect to the other shareholders? Is that correct?

A. Yes, that is correct.

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Q. Then, Mr. Medland, Mr. King and Mr. Streit and Mr. Wagman as well, become directors filling two newly-created vacancies and replacing Mrs. Kapp and Mrs. Tramiel? Is that in accordance with your recollection?

A. Yes.

Q. Now, when did you incorporate Commodore Business Machines Inc. in New York? I might say the information before the Commission is that the incorporation was the 5th of July, 1960. Does that agree generally with your recollection?

A. Yes.

Q. What was the purpose of incorporating this company?

A. The purpose was to sell equipment manufactured and assembled in Canada to be sold in the United States.

Q. Was this company from the beginning a wholly-owned subsidiary of Commodore Portable Typewriters?

A. Yes, it was.

Q. Did anyone else, I refer to Mr. Purvin, acquire an interest in that company?

A. Afterwards.

Q. How did that arise?

A. Well, Mr. Shepherd, I am not sure

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if he did acquire Commodore Business Machines Inc.

Q. Well, please state your best recollection of the circumstances?

A. When we started to sell our equipment in the United States, one of the major customers was the licensee in R. H. Macey's Department Store ---

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Q. Is a licensee a person authorized to deliver typewriters ---

A. --- office machines ---

Q. To Macey's or in Macey's --?

A. In Macey's ---

Q. And what was the name?

A. Herald Square Business Machines.

Q. Who owned Herald Square at that time?

A. Mr. George Purvin.

Q. Then what occurred?

A. The amounts of all receivables or amounts of moneys which Herald Square hand to Commodore Portable Typewriters --

Q. Yes ---?

A. --- became quite big and I have investigated how we could get payments faster from Mr. Purvin. Mr. Purvin explained to me how the sales are being made in Macey's, how long it takes them to get the money and

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everything else. I came back to Toronto I have explained the situation to Mr. Morgan because he looked over the accounts once in a while of seeing if they are over 90 days and 60 days and Herald's was one of the accounts he asked about, and I informed him that it seems everything is okay but there will be constantly a delay of getting paid before we can be able to get paid from Herald Square.

Mr. Morgan's recommendation was if I could get back and find out if there was a way we could join Commodore Business Machines Inc. with Herald Square and this is a way we could increase also our business.

Q. Yes. How would you increase your business?

A. Because Mr. Purvin also had a wholesale company and he had on his books about 2,000 customers.

Q. Is that Superior Typewriters?

A. Yes, sir.

Q. Who owned Superior Typewriters at that time, so far as your knowledge extends?

A. Mr. George Purvin and his brother.

Q. Is he Herbert?

A. Herbert Purvin, yes.

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Q. And what occurred?

A. We had a discussion and Mr. Purvin agreed to it.

Q. Mr. George Purvin?

A. Mr. George Purvin agreed to it, that it would be a good idea if we could join forces together.

Q. Yes?

A. And Mr. Wagman, Mr. Walton, and Mr. Morgan came down to New York after a while and looked over the whole thing, checked whatever they wanted to check, books I presume ---

Q. Yes --?

A. -- and we decided that we will join forces together. The one way how Mr. George Purvin could turn over his assets to Commodore was only by buying out his brother.

Q. Now, Mr. Tramiel, Mr. George Purvin then has to buy out his brother Herbert in respect of Herbert's interest in Superior Typewriters? Is that correct?

A. Yes.

Q. What was done to facilitate that?

A. Mr. Morgan arranged a loan for Mr. George Purvin.

Q. From whom did Mr. George Purvin

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borrow the money?

A. From Commodore Portable Typewriters.

Q. Yes. Was it $25,000?

A. Yes, that is right.

Q. All right. Now, what happened?

A. He paid this money to his brother I believe and then the assets were transferred to a new, to Commodore Business Machines Inc., which the name was changed to Herald Superior.

Q. I think, Mr. Tramiel, that the facts are these, are they not? Herald Square and Superior Typewriter merged in a company called Herald Superior, and Mr. George Purvin acquired a 50 per cent interest in Herald Superior and a 50 per cent interest in Commodore Business Machines Inc., remaining 50 per cent in each case being owned by Commodore Portable Typewriters? Is that your recollection?

A. That could have been, Mr. Shepherd.

Q. I will find an easy document to assist you.

THE COMMISSIONER: I think you said "Herald Square". You mean "Herald Superior" do you not?

MR. SHEPHERD: The new company was

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"Herald Square" ---

THE COMMISSIONER: That is the 50 per cent interest --?

MR. SHEPHERD: Yes, yes, I am sorry.

Q. I show you Exhibit 345, a prospectus of Commodore Business Machines (Canada) Limited made on 31st May, 1962 and purporting to be signed by you. Is that your signature?

A. Yes.

Q. Perhaps this will assist you. I observe that in the prospectus it indicates that Mr. George Purvin of the City of New York had two shares in Herald Superior Office Equipment Inc. and two shares in Commodore Business Machines Inc., and these shares represented 50 per cent of the subsidiaries, and Herald Superior Office Equipment was later wound up. Does that assist you in your recollection?

A. Yes.

Q. So now, Mr. Tramiel, Mr. George Purvin owns 50 per cent of Herald Superior and 50 per cent of Commodore Business Machines Inc., and the remaining interest is, in each case, owned by Commodore Portable Typewriters and Mr. George Purvin owes to Commodore Portable Typewriters $25,000? Is that correct?

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A. Yes.

Q. Now, you have a partner, in effect, in the American operation?

A. Yes.

Q. What occurred about this partnership then, or this interest of Mr. George Purvin in this company?

A. Well, we continued and -- and business was going quite well. I know during the period of time -- I don't recall the reasons why -- this 50 per cent in each company was exchanged ---

Q. Yes --?

A. -- I believe for 50 per cent, for 200 shares of Commodore Portable Typewriters ---

Q. Yes. Now, why was that done?

A. I -- I don't recall the exact reason why it was done ---

Q. Perhaps I can could assist you. Were you in Mexico when you received a telephone call from Mr. Purvin to the effect that Mr. Purvin wished to dispose of the American companies?

A. It wasn't from Mr. Purvin, it was from Mr. Kapp.

Q. Well, perhaps that would start you again. What happened then?

A. I am not sure if this was the talk of

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the 200 shares. During that period of time, as the business was growing in the United States and one thing that happened during that time, Mr. Shepherd, we also acquired at that time the North American distribution for an adding machine called "Quick Adding Machines", and there were more moneys borrowed from Mr. Morgan or from Commodore Sales Acceptance. One of the conditions that Mr. Morgan has loaned the money to us was that the officers of the company will guarantee the loans.

Q. Yes?

A. That question was asked of Mr. Purvin and Mr. Purvin's family is or was quite wealthy, and Mr. George Purvin explained to me that according to the will which his mother and father has he is not allowed to go into any guarantees for companies.

When I received the phone call from Mr. Kapp he advised me that Mr. Purvin intends to sell the American company. I was quite disturbed and I returned to New York where the following day Mr. Morgan, the buyer and Mr. George Purvin was present and Mr. Morgan has mentioned that those are his conditions and if he can get the money in the American operations, if it could be sold, he would like to sell it, if I had any objections; and my answer was,

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"I might have objections but there isn't anything I can do about it".

Q. Yes?

A. Then the meetings started and the buyer outlined his way of the purchase, how he would pay for the merchandise and the way he was trying to pay for it was that he will pay as the merchandise is sold. Then at the meeting I have explained to Mr. Morgan, "Well, if you want to wind up the American operation, Commodore could do the same thing and you would have it completely under control". He is giving the group, that means the buyer in Commodore Business Machines or Commodore Portable Typewriter, 30 days to come up with the money.

Q. Was the buyer's name Button?

A. Yes, Jack Button.

Q. B-U-T-T-I-N?

A. He is the brother of Jack Button. I am not sure how you spell it.

THE COMMISSIONER: B-u-t-t-o-n?

A. Yes -- and after 30 days we had another meeting and Mr. Morgan has decided that he does not want to sell it on that basis that Mr. Button has suggested, and on this basis Mr. Purvin has said that he would be willing to resign, to sell his interest.

MR. SHEPHERD: Q. What was his interest

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at this time?

A. 200 shares of Commodore Business -- Commodore Portable Typewriters --

Q. That is a 50 per cent interest?

A. I believe it was --

Q. Yes --?

A. -- if we pay off the loan that he owes Commodore Portable Typewriter. Mr. Morgan agreed to this. We had a meeting in our lawyers' office which was Benjamin Oremland, and he was the attorney also for Commodore ---

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Q. O-r-e-m-l-a-n-d ?

A. Yes -- and he has drawn up certain documents to this effect and one of my trips to Toronto I found out that there was this disagreement, we cannot go through with it because the company was not allowed to buy shares -- an Ontario corporation was not allowed to buy its own shares ---

Q. Yes --?

A. -- so Mr. Morgan has arranged a loan to Mr. Kapp and myself, and he was part of it too, for $25,000 that we will buy personally the interest of Mr. Purvin, and this is the way Commodore got paid and Purvin was released of the loan.

Q. Let me see if I understand,

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Mr. Tramiel. In or about 1960, in the month of June -- would that agree with your recollection? -- Mr. Purvin acquired in the manner you have described a 50 per cent interest in Herald Superior and a 50 per cent interest in Commodore Business Machines Inc.? Is that correct?

A. Yes.

Q. Then, I didn't put this to you before because, as you can see, I couldn't find the minute -- by minute dated 18th April, 1961 of Commodore Portable Typewriters, being Exhibit 322, the following passage appears:

"The secretary --"

That is Mr. Kapp, is it not?

A. Yes.

Q. "The secretary then advised the "meeting that he had been negotiating "with George Purvin of the City of "New York in the State of New York the "purchase by this company of the issued "and outstanding common shares in the "capital stock of Herald Superior Office "Equipment Inc. and Commodore Business "Machines Inc. owned by the same George "Purvin, representing 50 per cent thereof, "the remaining 50 per cent already "being owned by this company. The

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"secretary presented to the meeting
"a contract reciting the terms and
"conditions thereto, which contract
"was read to the meeting and discussed
"clause by clause. The secretary was
"instructed to annex a copy of the
"said agreement to the minutes of this
"meeting as a schedule"

And, going on:

"Upon motion made, duly seconded and
"unanimously carried it was resolved
"that the company be and it is
"hereby authorized to enter into an
"agreement with George Purvin for the
"purposes of purchasing all the issued
"and outstanding common shares in the
"capital stock of the said Herald
"Superior Office Equipment Inc. and
"Commodore Business Machines Inc., being
"50 per cent thereof, for the price,
"and subject to the terms and conditions
"contained in the said agreement and
"that the president and secretary be
"and they are hereby authorized to
"execute the said agreement on behalf
"of the company and under the
"agreement thereto in the form of
"or in substantially the form of the

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"agreement presented to the meeting
"and annexed to the minutes of this
"meeting as a schedule. On motion
"made, duly seconded and unanimously
"carried, it was further resolved:
"1. that the directors determine that
"the common shares of the capital
"stock of Herald Superior Office
"Equipment Inc. and Commodore Business
"Machines Inc. mentioned in the said
"agreement made between George Purvin
"and this company are in all
"circumstances of the transaction the
"fair equivalent of and fair consideration
"for 200 shares of the capital stock of
"the company;
"2. that 200 common shares of the
"capital stock of the company with the
"par value of $1.00 be and the same are
"hereby allotted to C. Powell Morgan
"in Trust pursuant to the said agreement
"between George Purvin and this company....."

Have I read that properly?

A. Yes.

Q. Yes. Now, do I understand then that in return for Mr. Purvin's 50 per cent interest in the two American companies Commodore Portable Typewriters was issuing

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200 shares to him of the stock of the Commodore Portable Typewriters in exchange? Is that right?

A. Yes.

Q. And these shares were to go, and did go, to C. Powell Morgan in Trust as security for Mr. Purvin's continuing obligation to pay to Commodore Portable Typewriters the $25,000 he had borrowed in the previous year?

A. Not only for this reason, Mr. Shepherd. There was also the reason that Mr. Morgan had an agreement with Portable Typewriter from the beginning that all shares would be held in trust by him.

Q. So it was in part as security for the $25,000, in part it was security for Commodore Portable Typewriters' debt to Commodore Sales Acceptance? Is that correct?

A. Yes.

Q. Now, Mr. Purvin has 200 shares in the parent. Did you take any part in the negotiation of this arrangement with Mr. Purvin?

A. If you could repeat the question --?

Q. Did you take part in the negotiations with Mr. Purvin leading up to this purchase of his interest in the subsidiaries?

A. Yes.

Q. And what interest did Mr. Purvin

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demand to have in Commodore Portable Typewriters in return for giving up his interest in the subsidiaries?

A. We gave him 50 per cent -- it was never a percentage, it was in shares ---

Q. 200 shares out of 400 shares?

A. Yes, right.

Q. Yes. And Mr. Purvin was giving up a 50 per cent in two subsidiaries and he was getting a 50 per cent in the parent. Did this not seem to you to be a generous arrangement for Mr. Purvin?

A. Well, at that time I actually didn't look at it that way because the Superior Typewriter was a very well known company in the United States. Commodore was something brand new.

Q. Then in or about October of the same year, 1961, I take it from what you have said Mr. Purvin then sold shares in Commodore Portable Typewriters on terms that the shares would be transferred to Commodore Portable Typewriters and Commodore Portable Typewriters would cancel its loan to Mr. Purvin? Is that correct?

A. Yes.

Q. Did I understand you to say that Mr. Purvin sold, on this later occasion in

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October, 1961 his 200 shares, the 50 per cent interest, to Commodore Portable Typewriters in exchange of that $25,000?

A. This was an agreement made in New York.

Q. Yes. Was that the agreement?

A. This was the original agreement and then when we came to Canada we found out we could not do that.

Q. How many shares was Mr. Purvin selling as a result of this agreement in New York in about October?

A. I believe 200.

Q. Then Mr. Purvin delivered shares, you said, to Mr. Morgan? Is that correct?

A. Yes. Well, I mean "delivered" he never had ---

Q. He gave up his interest in the shares?

A. Right.

Q. Yes. And you and Mr. Morgan and Mr. Kapp took over to pay to Commodore Portable Typewriters $25,000 which Mr. Purvin owed to that company? Is that correct?

A. Yes.

Q. And do you say that subsequently you did pay it?

A. Yes.

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Q. And that is how you got the 200 shares which were issued to Mr. Purvin? Is that correct?

A. Yes.

Q. So Mr. Morgan, in taking over Mr. Purvin's interest, acting for himself and you and Mr. Kapp equally, that is how you each had a one-third interest?

A. Yes.

Q. Now, Mr. Tramiel, I put to you that the transaction did not occur in that way; and I wonder if you can assist me. I would suggest to you that on the 18th of April 1961, as you have said, Commodore Portable Typewriters did issue 200 shares to Mr. Purvin allegedly for his 50 per cent interest in the subsidiaries; but I direct your attention to a contract dated the same day, 18th of April, 1961, between Mr. Purvin and Mr. C. Powell Morgan, wherein on the same day as Mr. Purvin acquired 200 shares allegedly for his interest in the subsidiaries, he conveys 100 shares back to Mr. Morgan personally for the sum of a dollar. Were you aware of that transaction occurring?

A. I don't recall the transaction.

Q. Well then, I put to you --

THE COMMISSIONER: Your answer was you do not --?

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A. I don't recall the transaction.

THE COMMISSIONER: You do not recall.

MR. SHEPHERD: Q. I put to you the minutes of a meeting of Commodore Portable Typewriters on the 25th of April, 1961. The minutes are signed by yourself and Mr. Kapp, the persons present or consenting thereto by their signatures are Messrs. Tramiel, Kapp and Wagman, which read in part as follows:

"The secretary presented to the meeting "an assignment of 100 common shares of "the capital stock held by C. Powell "Morgan in Trust in favour of C. Powell "Morgan and requested of the board that "it approve such transfer. Upon a "motion duly made and seconded and "unanimously carried it was resolved "that the transfer 100 common shares of "C. Powell Morgan to C. Powell Morgan "be and the same is hereby ratified "and approved"

Is that correct?

A. That is what the minutes say.

Q. Then, Mr. Tramiel, I suggest that it would appear from the minute book that at least on the 25th of April, 1961, seven days after the transaction, you must have been aware that Mr. Purvin, having been allotted a 50 per

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cent interest in Commodore Portable Typewriters, on the same day transfers half that interest to Mr. Morgan personally for a nominal consideration?

A. I don't recall this particular transaction the way you just put it. I didn't recall at all about 100 shares that is transferred ---

Q. You say you don't recall it as I have put it. Would you put it please to explain what is you do recall.

A. I have seen the minutes of Commodore Portable Typewriters ---

Q. Yes --?

A. I did sign those minutes. Mr. Shepherd, many transactions what I have signed, the trust what I had in Mr. Morgan at all times, I found him, this was to be in some form or some way to secure himself. It never came into my mind in any way that this way was for his personal benefit.

Q. Well, Mr. Tramiel, the difficulty I think we are all in is that it appears to be for the benefit of Mr. Morgan and yourself and Mr. Kapp. Is it not?

A. I knew of the 200 shares but not of 100 shares.

Q. Do you say then that although you

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signed these minutes, to which in the minute book is annexed a copy of the agreement, that you were not aware that Mr. Purvin transferred to him one-half of this 50 per cent interest which Commodore Portable Typewriters made over to him, back to Mr. Morgan personally?

A. What I am saying, Mr. Shepherd, is that the minutes I have signed those minutes, this is the way it reads ---

Q. Yes --?

A. -- but I didn't understand the transaction as it was for Mr. Morgan personally. To me it looked to me still that he was looking for security. It never came even into my mind that it was for him personally.

Q. But Mr. Morgan, do you agree with me, Mr. Tramiel, in fact, held those 100 shares thereafter for yourself and Mr. Morgan and Mr. Kapp in equal shares?

A. But I believe it was 200 shares. This is what I recall.

Q. Yes, you are quite right. After the 100 shares, when he acquired them in regard to the 200, $25,000 he held that as well --?

A. Those I recall, 200 shares, but when we paid $25,000 I don't remember in any way that I had anything to do with the 100 shares,

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and to me it was still that Mr. Morgan had that for security.

(Page 11410 follows)

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Q. Now, Mr. Tramiel, you told us that you were associated, to some extent at least, with the negotiations with Mr. Purvin for the purchase of his interest. Are you saying that although Mr. Purvin entered into this transaction with Mr. Morgan on the very day that he got the 200 shares that you did not know that any such step was contemplated?

A. This is what I am saying, Mr. Shepherd, at all times in the negotiations with Mr. Morgan and with some other people Mr. Morgan had a way once in a while, you know, to take the people aside which I always felt, you know, he wants security how good the business is and so on, what exactly he said, I don't know, I had faith in the man and I wouldn't question it. I did not know about this separate transaction with Mr. Purvin.

Q. Now that you are aware of it, Mr. Tramiel, would you agree with me that it is grossly improper?

A. If it is for him personally, it would be improper, but I still don't know if it was for him personal.

Q. I see. What reason can you suggest, Mr. Tramiel, why Mr.Morgan would take shares which he held in his own name in trust and transfer them to himself personally, if it were not in order

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to assert his own personal interest in the shares?

A. This I wish I could answer you, Mr. Shepherd.

MR.SHEPHERD: May I have Exhibit 2146, please? Sorry, Mr.Commissioner, this exhibit is not here. Would it be convenient if somebody were to get it for us?

THE COMMISSIONER: Yes.

MR. SHEPHERD: Mr. Tramiel, if you and Mr, Pomerant agree and with the Commissioner's leave, while the original exhibit is being sent for, I show you what purports to be a photocopy then we could check to make sure I am showing you the right document.

I show you an unsigned copy of a letter dated 25th of April, 1962, addressed to yourself and Mr. Tramiel (sic Kapp) for the signature of Mr. Morgan, which came, as I recall the matter, from the files of Solomon and Singer. This document, Mr. Tramiel, is an acknowledgement by Mr. Morgan that he holds certain shares in equal portions for himself, for you and for Mr. Kapp and also on another matter we will be dealing with, that he is responsible for one-third of the debt of $100,000 made to Aurora Leasing Corporation by Don Mills, do you recall

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whether you ever received such a communication from him?

I am now in a position to show you the original exhibit.

A. I don't remember this exact letter, Mr. Shepherd, I do remember that we had borrowed $100,000.

Q. Yes, and do you remember getting an undertaking in some form from Mr. Morgan that he was responsible for a third of that $100,000 although he had not signed the note?

A. Yes.

Q. Now, I am -- I will read this letter and then perhaps you can tell me whether it substantially agrees with your recollections of the arrangements. It reads: -

"I, the undersigned, hereby acknowledge
"the following:
" (a) I presently have in my
"possession 2 share certificates issued
"to C.P.Morgan in Trust, by Commodore
"Business Machines (Canada) Ltd., for
"(#11) 99 (#21) 10 shares
"respectively. I hereby acknowledge
"that I am holding the said Certificates
"for the following individuals:
" Manfred Kapp 36 shares
" Helen Tramiol 36 shares

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" Benjamin Silberman 37 shares

" The ownership of these shares "was previously set forth in a written "agreement between the parties."

Stopping there for a moment, if I read that correctly ---

A. Yes.

Q. Now, that 109 shares relates, does it not, to the 109 shares which you had left over in your families after Messrs. Medland, Streit, King and the others received those shares as a bonus?

A. Yes.

Q. Continuing with the letter: -

" (b) I also have in my possession "share certificate #24 issued by Commodore "Business Machines (Canada) Ltd., to "C.P.MORGAN, in Trust for 100 shares "of stock. I hereby acknowledge that "the stock represented by the said "Certificate is beneficially owned "as follows: "

And then the three names; Messrs. Kapp, Tramiel and Morgan, 33 and 1/3 shares written opposite each name.

"(c) I hereby further acknowledge that "I presently also hold Certificate #26, "issued by Commodore Business Machines

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"(Canada) Ltd., to C.P.MORGAN
"for 100 shares. The stock represented
"by the said Certificate is beneficially
"owned as follows: "

Manfred Kapp, Jack Tramiel, C.Powell Morgan, 33 and 1/3 shares, written opposite each of the names, stopping there, have I read that correctly?

A. Yes.

Q. Can you now assist us as to whether you recall having seen this letter?

A. No.

Q. Can you assist us as to whether you received any written communication of any kind from Mr.Morgan setting out the interest which you, Mr. Kapp and Mr. Morgan had in the shares standing in his name?

A. My recollection was that we had the 109 shares.

Q. Yes?

A. And one-third of the 200 shares.

Q. Yes?

A. This is my recollection.

Q. And indeed your recollection is quite correct, that is exactly what you did have.

THE COMMISSIONER: A third of what shares?

MR.SHEPHERD: 200 shares.

THE COMMISSIONER: I see, yes.

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MR.SHEPHERD: Q. But your recollection does not extend, I take it, to the manner in which Mr.Morgan acquired those shares from Mr. Purvin on the very day that Commodore Portable Typewriters issued 200 shares for Mr. Purvin's interest in the subsidiary, is that correct?

A. That's right.

Q. And Mr.Purvin never told you about any such arrangement, is that so?

A. That's right.

Q. Mr. Morgan never told you, Mr. Kapp never told you?

A. Not that I can recall.

Q. Can you assist us at all as to why Mr. Solomon, perhaps you can't, would have in his files a copy of such letter?

A. Maybe Mr. Kapp asked him for it, I didn't live in the United States at that particular time.

Q. So ---?

A. I am sorry, I lived in the United States at that time and this was written here to our Canadian office and I wasn't following up what correspondence there was from the solicitors.

Q. And Mr. Tramiel, we have it quite clearly, do we not, upon your oath that you knew nothing about the transfer of those 100 shares to

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Mr.Morgan contemporaneously with the issue of the 200 shares to Mr. Purvin?

A. To answer your question I don't recall anything about those 100 shares at the present moment.

Q. Is that a little different from what you told me before?

A. I don't think so.

Q. You mean you may have known at the time and forgotten about it since?

A. The way you are putting it to me you know this is a number of years and the way you are saying if ever, to me it wasn't important at all because I always look at the last figure, I knew that I had a third of 200 shares. I trusted Mr.Morgan. I never had any doubts that he wants to do something that isn't right, even if he did mention to me which I don't remember at the present time I wouldn't even -- it wasn't important to me.

Q. Surely, Mr. Tramiel, if your company, which was not then wholly owned by you three, if you had 200 shares upon the representation that number of shares, being 50% of the issued capital, was required to be issued to acquire an asset of Mr.Purvin's and you had known at that time that Mr. Purvin would immediately give up for one dollar half of those shares that

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would have stuck in your mind, would it not?

A. It would.

Q. Yes. Is there anything more at all that you can tell us respecting the acquisition of the 200 shares by yourself and Mr. Morgan and Mr. Kapp so far as we have gone up to the moment?

A. No.

Q. Now, you said that you and Mr. Kapp and Mr. Morgan paid $25,000 to Commodore Portable Typewriters in satisfaction of Mr.Purvin's debt respecting what we now know to be a - though you have stated that you thought -- we now know to be 100 shares and you have stated you believe it to be 200 shares, you said that you paid it, is that correct?

A. I believe we did.

Q. Where did you get the money to pay it?

A. Must have been borrowed from Commodore Sales Acceptance.

Q. Do you recall whether you and Mr. Morgan and Mr. Kapp borrowed the money from Commodore Sales Acceptance?

A. I don't recall.

Q. I should, in fairness, tell you, Mr.Tramiel, that those shares were in fact treated as having been paid for by Mrs. Kapp and

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Mrs. Tramiel, does that assist you at all?

A. No.

Q. Just while we are on that point, may we safely take it that where shares stand in the names -- or shares of Commodore Portable Typewriters or Commodore Business Machines stand in the name of Mrs. Kapp and Mrs. Tramiel that you and Mr. Kapp are respectively the beneficial owners of them, is that correct?

A. Yes.

Q. The books indicate, Mr. Tramiel, that these moneys were received or are recorded as being received in American funds, does that assist you at all? $16,000 of these moneys were recorded as having been received in American funds?

A. I don't know.

Q. Is it your position then, Mr. Tramiel, that Commodore Portable Typewriters was repaid in respect of the Purvin loan, that so far as you personally are concerned, your recollection is that at least your share of the moneys paid on behalf of Mrs. Tramiel were borrowed, but precisely the source from which they were borrowed, you cannot now recall?

A. This is about correct. I believe it was borrowed.

Q. Yes. Do you recall whether it was

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borrowed from Commodore Business Machines in Incorporated?

A. No, definitely wouldn't be borrowed from Commodore Business Machines.

THE COMMISSIONER: I beg your pardon?

A. It wouldn't be borrowed from Commodore Business Machines.

MR. SHEPHERD: Q. Do you recall whether the loan, from whatever source it was borrowed, was ever repaid by you and Mr. Morgan and Mr. Kapp or your wives?

A. It must have been repaid.

Q. Do you have a recollection of repaying it?

A. The exact dates, no I don't, but I know everything we borrowed we have paid back and I don't recall exactly when it was borrowed or when it was paid back.

Q. Is there anything more you can tell us on the 200 shares issued to Mr. Purvin or do we have the whole truth from you?

A. I have a letter here -- was confirmed to Mr. Kapp.

Q. Yes?

A. From Mr. Oremland.

Q. Yes?

A. On October 20th, 1961, where it specifically states that for the $25,000 Mr. Purvin

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will resign from Commodore Portable Typewriters, turn over all the shares, etc., etc., nothing to do with the 100 shares but all the shares.

Q. Well, just grant me a moment.

A. And it is important here also it states Mr. Purvin's shares are now being held by Mr. Morgan.

Q. Is that a letter of the20th of October, 1961 addressed to Commodore Portable Typewriters from Mr. Oremland?

A. Yes.

MR.SHEPHERD: Yes, he refers, Mr. Commissioner, the witness is referring to a copy of Exhibit 2145.

Q. I show you, is there something you wish to say about that, Mr. Tramiel?

A. And also enclosing here the original resignation and showing the shares originally owned by Mr. Purvin were being held by Powell Morgan.

MR.SHEPHERD: Now, could I have 2144, please?

Q. Let me show you a letter to Mr. Purvin, Exhibit 2144, dated the 9th of October, 1961, relating to this transaction purporting to be signed "Jack Tramiel". Is that a letter sent by you?

A. Signed by me.

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Q. Signed by you, yes, and the first part of the letter reads: -

" My dear Mr. Purvin:

" We hereby acknowledge our "understanding and agreement to the "following effect:"

Then in capital letters:

" FACTUAL BACKGROUND

" You, heretofore, were the "owner of 25% of the issued and "outstanding stock of our Corporation. "You are indebted to our Corporation "for the sum of $25,000.00 which "obligation was heretofore "evidenced by a negotiable promissory "note. The stock owned by you "in our Corporation was put up "in escrow with C.Powell Morgan as "escrow agent as collateral security "to secure payment of the obligation "due to us under the aforesaid note."

And then the letter goes on to deal, does it not, with how Mr.Purvin's interest will be purchased in return for the cancellation of Mr. Purvin's note of $25,000?

A. Yes.

Q. Is that correct?

A. Yes, the letter was signed by me.

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Q. If you thought that you were dealing with 200 shares of Commodore Business Machines of which there were then 400 outstanding, why do you open your letter: -

"You, heretofore, were the owner "of 25% of the issued and outstanding "stock of our Corporation."

A. Because this document, I am almost sure, must have been prepared by our attorney and I didn't even check the percentage.

Q. But you signed it, Mr. Tramiel?

A. I did, I did.

Q. So on the 9th of October, you are offering to buy 25%, this is the interest you heretofore held for Mr. Purvin, but you assert that really you believed there was still, beneficially owned by him and available for sale by him on that day, 200 shares which is 50%, is that correct?

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A. Yes.

THE COMMISSIONER: Fifteen minutes.

---Recess, 3:35 p.m.

---On resuming at 3:57 p.m.

MR. SHEPHERD: Q. Mr. Tramiel, you were saying something about acquiring rights

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respecting an adding machine, is that correct?

A. I didn't say "buying".

Q. I said acquiring.

A. Yes.

Q. Yes. Would you please relate what rights you refer to and tell me the story about the acquisition of these rights?

A. I don't recallthe exact date but I believe it was sometime in the end of 1960.

Q. Could it be early 1961?

A. I don't recall the exact date.

Q. Yes.

A. Mr. Kapp has returned from one of his trips.

Q. Where had he been?

A. He had been to the factory in Czechoslovakia.

Q. Yes, he would be in Europe on behalf of Commodore Portable Typewriters, is that correct?

A. Yes, and he went to visit an Exhibition in Paris of office machines and he met Mr. Markus, the gentleman which I previously mentioned.

Q. This is Mr. Markus who was the principal in a company "Typewriter Sundries Company Limited"?

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A. Yes.

Q. Yes?

A. And he showed the adding machine to Mr. Kapp and he mentioned this is available for the North American market.

Q. What was the name of the adding machine?

A. Quick. Mr. Kapp advised me of his discussions. I believe we had a machine flown in to New York. I liked the machine and then I went in to negotiations with Mr. Markus over getting the North American rights.

Q. Did you go to England for this purpose?

A. Yes.

Q. Yes, and what was the result of these negotiations?

A. We did receive a five year contract to buy 24,000 machines a year.

Q. Yes?

A. From Typewriter Sundries. This machine was manufactured by a company called Willi Feiler.

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Q. Yes?

A. And we started to sell the machine. It was quite successful.

Q. Did you sell it in the United States and Canada?

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A. In the United States and Canada.

Q. That was the extent of your exclusive franchise, I take it?

A. At that time.

Q. Yes?

A. I --- do you want me to continue on the adding machine?

Q. Yes, please.

A. The American market is quite big and the amount we received from the factory was about 700 to 800 machines a month. We were in a position to sell many more machines than 800 a month.

Q. Yes?

A. I have discussed this in letters and personal visits to Mr.Markus that we need more machines and I suggested that maybe I should visit the factory.

Q. Yes?

A. The owner of the factory was an ex-father-in-law of Mr. Markus.

Q. Mr. Feiler?

A. Mr.Feiler.

Q. Yes?

A. And I did meet Mr. Feiler and Mr. Feiler told me that the factory -- yes he could produce more machines but he required more money and it is up to Mr. Markus and if

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he advances more money he will be willing to produce more machines as he personally, he mentioned, he is a rich man, he is too old to invest of his own money to it.

Q. Just stopping there, Mr. Tramiel, is this leading us into the ultimate acquisition of the Willi Feiler plant and business?

A. Yes.

Q. Yes, just before we leave the Quick Adding Machine, who acquired the rights to the Quick Adding Machine?

A. Commodore Portable Typewriter.

Q. And from whom did Commodore Portable Typewriters acquire these rights?

A. From Typewriter Sundries.

Q. Well, I put it to you, Mr. Tramiel that Commodore Portable Typewriters acquired these rights from Commodore Industries Limited of Jamaica, does that agree with your recollection?

A. It could have been.

Q. Yes, would it assist you to see the minute?

A. Yes.

Q. I show you a minute of Commodore Portable Typewriters, in Exhibit 322, of a meeting dated the 3rd of July, 1961, and attended, the minutes are signed by yourself and Mr.

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Kapp said to be attended by -- or I will quote the minute : -

"Present or consenting thereto as
"evidenced by their signatures hereto;
"Jack Tramiel, Manfred Kapp, Harry
"Wagman, Carman G.King, G.Aubrey
"Medland, William T.Streit"

And it reads in part:-

"The secretary then advised the
"meeting he had been negotiating with
"Commodore Industries Limited."

THE COMMISSIONER: Slowly, please?

MR.SHEPHERD: " - - - with Commodore
"Industries Limited, a company
"incorporated under the laws of
"Jamaica, for the assignment to the
"Company of all right, title and
"interest of Commodore Industries Limited
"in a certain agreement entered into
"between Typewriter Sundries Company
"Limited, a company incorporated under
"the laws of the United Kingdom and
"Commodore Industries Limited. The
"secretary presented to the meeting
" a copy of the said agreement and
"was then instructed to annex a
"copy of the same to the minutes of
"this meeting as schedule A hereto."

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Have I read that correctly?

A. Yes.

Q. With that in front of you, does it assist you to recall that although you and Mr. Kapp negotiated with Mr. Markus as you have said that Typewriter Sundries Limited granted the North American rights to a company called Commodore Industries Limited?

A. If the minute says this it must have been correct.

Q. Do you recall that that was done?

A. Yes. Now since I have seen the minutes.

Q. Yes. Who owned, at that time, the shares of Commodore Industries Limited of Jamaica?

A. I really don't recall. I believe it was Mr. Kapp and myself.

Q. I show you the prospectus, Exhibit 345, you have already looked at it earlier today, Mr. Tramiel, signed by you, and I direct your attention to the last sentence in paragraph 26:

" Messrs. Tramiel and Kapp are the
"owners of all the issued capital stock
"of Commodore Industries Limited."

Is that correct?

A. Yes.

Q. With that in front of you, does that

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assist you to remember with certainty that you and Mr. Kapp owned Commodore Industries Limited?

A. Yes.

Q. Then I put it to you, Mr. Tramiel, and you may certainly have the minute book, if you require it for this purpose, that Commodore Industries Limited produced an agreement with Typewriter Sundries dated the 15th of June, 1961, and assigned it on the 3rd of July, 1961 to Commodore Portable Typewriters upon terms that certain royalties were to be paid to Commodore Industries Limited by Commodore Portable Typewriters in respect of the sale of these machines. The royalties commencing on the 15th of April, 1962 and running for five years with the provision that the royalties would not exceed $125,000 payable to Commodore Industries Limited but with a right to Commodore Portable Typewriters to buy Commodore Industries Limited interest at any time for $100,000. Do you recall that substantially was the agreement?

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A. Yes.

Q. Why was this done?

A. We, Commodore Industries was a Jamaican company and it was assembling typewriters.

Q. Yes?

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A. And ---

Q. In what market did Commodore Industries, Jamaica, sell the assembled typewriters?

A. I believe to the United States and to Canada.

Q. Yes?

A. We had, I think, the right to sell in other places too.

Q. Yes?

A. But one of the ideas was to sell them in the Commonwealth where the duties will be lower.

Q. Were these the same typewriters as Commodore Portable Typewriters was selling?

A. Yes.

Q. Yes. Go on, please?

A. And I believe it was more advantageous to do the business through Commodore Industries with whom we were negotiating at that time because this, I think we received a tax holiday for a certain amount of years from the Jamaican Government or something of this nature and that was the reason why we went into this agreement with Typewriter Sundries. This I can recall at the present time.

Q. I would appreciate, Mr. Tramiel, it would be more advantageous to Commodore Industries

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of Jamaica but can you explain more fully how this was advantageous to Commodore Portable Typewriters?

A. I believe Commodore Portable Typewriter, we did not at that time have any outside shareholders, Mr. Shepherd.

Q. And in June of 1961, my memory is --

A. I think when you showed me the minute it was signed by ---

Q. No, I think Mr. Medland, Mr. Streit, Mr.King and the others came in on the 1st of October, 1960, I show you Exhibit 322, referring to the minutes of that day, is that not correct?

A. Yes.

Q. Yes, so --- go ahead, please?

A. But the agreement between Typewriter Sundries and -- although we started selling the machines before '61 ---

Q. Well, Mr. Tramiel, perhaps you could assist me on that. I can only go by the minutes

ERRATA VOL. 93 and you will see the minutes of a meeting dated the 3rd of July, 1961, have annexed to them a contract between Commodore Industries Limited of Jamaica andCommodore Portable Typewriter Company Limited and that agreement says that the contract between Commodore Industries Limited and Typewriter

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Sundries Limited is dated the 15th of June, 1961 ----

A. Let me see.

Q. Now, it also says, Mr. Tramiel, "a copy of which is annexed hereto and marked Schedule A", and there is no copy annexed so I can't show you the agreement itself, but can you, with that reference before you where the agreement is signed by yourself on behalf of Commodore Portable Typewriters and by Mr. Kapp on behalf of Commodore Industries Limited, refers to the existence of the franchise agreement between Typewriter Sundries and Commodore Industries Limited as being dated the 15th of June, 1961, can that assist you as to when that contract was entered into?

A. Well, I am sure that the date in the minutes are correct, Mr. Shepherd, but I do -- I believe that -- I --- that the dates when we started doing business with Typewriter Sundries were earlier than that. We did not always finalize contracts.

Q. Is this the case, Mr. Tramiel, that you imported and sold Quick Adding Machines prior to June, 1961, but it was not till that date that you were granted, Commodore Industires Limited was granted an exclusive franchise for North America, would that be the explanation?

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A. That could be the explanation and also I believe, as you were mentioning it, when we had the outside interests it was advised by Mr. Morgan or our attorneys or whatever it is, they wanted to know exactly what else were involved in talking about ourselves, talking about Mr. Kapp and myself.

Q. Yes?

A. And this is the time when we get into this agreement.

Q. But this is what is troubling me, Mr. Tramiel, perhaps you can assist the Commission onthis. You have said that Mr. Kapp was in Europe on the business of Commodore Portable Typewriters and I take it they were paying his expenses and his salary,is that correct?

A. At that time, particularly when we say Commodore Portable Typewriters, Mr. Shepherd, we still at the time looked -- that this is a private business belonging to two people and their families and how ---

Q. Even though in fact it wasn't?

A. We were borrowing money, but it still was a private business.

Q. But as I say even though in fact it was not?

A. It was.

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Q. It was not a business owned only by two families?

A. I believe it was.

Q. Well, you had Mr.Medland, Mr. Streit, Mr. King and the like?

A. Now I am fairly sure that when Mr. Kapp went on the trip or when he came back it was before this.

Q. But if we can rely on the date of the contract as set out in the minutes the contract was entered into on the 15th of June, 1961, and you had had other shareholders then for some eight months?

A. Yes, but Mr. Shepherd, I mentioned we didn't always get the contracts on the dates when we started to sell the equipment or go into a certain transaction.

THE COMMISSIONER: Mr. Tramiel, my note of what you said earlier about the acquisition of the Quick Adding Machine rights indicates your belief that they were acquired in early 1961 when Mr. Kapp had returned from his trip.

A. Mr. Commissioner, I had mentioned I was not sure of the dates, the exact date.

Q. Well, there is nothing very exact about "early 1961"?

A. I am still not sure of the exact dates.

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THE COMMISSIONER: Yes?

MR.SHEPHERD: Q. Well, Mr. Tramiel, the contract signed by Commodore Portable Typewriters was executed in July, 1961, that is the contract I showed you, there is no doubt about that, is there?

A. No.

Q. Did you tell Mr. Medland?

A. The only reason I am saying "no doubt" because it is in our minutes.

Q. Well, so that there will be no misunderstanding because it bears your signature, does it not?

A. And also Medland's.

Q. No.

A. No?

Q. I show you again the contract between Commodore Industries Limited and Commodore Portable Typewriter Company Limited dated 3rd of July, 1961, signed by Mr. Kapp for Commodore Industries Limited and by yourself for Commodore Portable Typewriters, is that not correct?

A. Uh, huh.

Q. Yes. Now, when you entered into that contract in July, 1961 and dealt with the matter in the minutes of the company, did Mr. Medland and Mr. Streit and Mr. King know then that

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you and Mr. Kapp owned Commodore Industries Limited?

A. I believe they did.

Q. And why do you believe they did?

A. Because we have shown we had in the minutes, as far as this contract was concerned between Commodore Industries and there was-- I don't believe I was hiding anything from them.

Q. There is no reference inthe minutes though, Mr. Tramiel, to a declaration of interest by yourself or Mr. Kapp inthe contract?

A. Well, we have this contract in the minutes and it is signed by Mr. Kapp.

Q. Yes?

A. An officer and by myself, he is an officer of the Jamaican Company.

Q. But the agreement wouldn't be attached until after the minutes were prepared and the recital of the reference at that meeting to that contract does not include a declaration of interest by yourself or Mr. Kapp?

A. That's right.

Q. Well, can you assist us at all, before I leave the point, as to why Mr. Kapp and yourself negotiated this contract with Mr. Markus, put it into Commodore Industries Limited and then assign the right so acquired to Commodore Portable Typewriters on terms whereby Commodore

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Portable Typewriters was bound to pay a royalty or to purchase the rights for $100,000?

A. The only reason I would say this was is when we have declared that what Commodore Industries is, we had a certain loss in Commodore Industries to be able to turn it over a certain day whenever Commodore Portable Typewriters want it, we have to get this money back and it was sold strictly on that basis.

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MR. SHEPHERD: Q. What ultimately happened to these Quick Adding Machine rights?

A. It was paid up, I believe. They were paid by Commodore Portable Typewriters.

Q. What did Commodore Portable Typewriters do?

A. Continued selling them.

Q. Was the rights not subsequently conveyed to the Irish subsidiary?

A. No.

Q. They were not the same rights?

A. No.

Q. I see. The books of Commodore Portable Typewriters indicate that Commodore Industries Limited in Jamaica owed to Commodore Portable Typewriters at the end of February, 1962, a sum in the order of $92,000 which was made up in part of the payment of travel expenses by you to Jamaica, initially paid by Commodore Portable Typewriters but then charged to Commodore Industries Limited, in part of sums owing to Commodore Portable Typewriters by Commodore Industries Limited apparently for goods sold and in part for a net amount of $50,000-odd which arose out of a complicated series of transactions between those two companies. Do you recall in general that such a debt did

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exist?

A. Yes.

Q. Between Commodore Portable Typewriters and Commodore Industries Limited?

A. Yes.

Q. Why was Commodore Portable Typewriters financing to that extent Commodore Industries Limited?

A. One, because they would have been the customers to buy the equipment from Jamaica.

Q. I am sorry, I do not understand that.

A. One, they would have been the customer.

Q. Who would have been?

A. Commodore Portable Typewriter.

Q. Would have been what, Commodore Industries Limited customer?

A. Yes. That is one. And number two, it was owned by the same shareholders.

Q. Had the practice grown up, then, of Commodore Industries Limited in Jamaica acquiring goods and selling them to Commodore Portable Typewriters?

A. Or Commodore Business Machines Incorporated.

Q. Yes, a subsidiary of Commodore

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Portable Typewriters?

A. Yes. Right.

Q. Over what period of time did that practice continue?

A. I would say about twelve months, maybe eighteen months.

Q. Ending about when?

A. I don't recall the exact date but I would say some time maybe the end of 1961 -- the beginning of '61 some time.

Q. It would be presumably, later than the beginning of 1961, would it not? There was this indebtedness still outstanding at the end of February, 1962, as I recall it?

A. Again, if -- if I could look at the minutes or some documents. Exact dates I don't know.

Q. I cannot assist you there, Mr. Tramiel. You appreciate we are talking of a Jamaican company selling to an American company?

A. In Canada.

Q. Where are the books and records of Commodore Industries Limited?

A. They were left with a Jamaican attorney.

Q. Are you still the owner of an interest in that company?

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A. Since Commodore Portable Typewriter bought it I don't know whether it was dissolved and everything paid off; but, I don't know of any interest.

Q. When did Commodore Portable Typewriters buy Commodore Industries Limited (Jamaica)?

A. I think they bought Commodore Industries (Jamaica) -- They bought the rights, they did not buy the company itself.

Q. Your recollection is that Commodore Portable Typewriters paid or otherwise transferred assets to Commodore Industries Limited (Jamaica) to acquire the rights to the Quick Adding Machine. Is that so?

A. One had nothing to do with the other.

Q. Then, you have lost me.

A. Well, the one, like, they had -- Commodore Portable Typewriters was selling parts, or other things, to Industries.

Q. Yes?

A. Which Commodore Industries owed money to Commodore Portable Typewriters. This was one transaction. The other transaction is that Commodore Portable Typewriters had to pay a royalty or bonus amount of money if they wanted to buy the rights.

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Q. To Commodore Industries Limited?

A. Yes. Right.

Q. Which did they do, did they buy out the interest ultimately for $100,000?

A. Yes, I believe they cancelled the debt, I believe.

Q. Did Commodore Industries Limited have a plant in Jamaica?

A. Yes. When I say "plant", they have rented.

Q. How large an establishment was it?

A. As I can recall at the present I think it was about 20,000 square feet.

Q. How many people did Commodore Industries Limited employ?

A. At the peak I would say about 45, 40.

Q. When was the plant finally closed and abandoned?

A. I can't answer that question.

Q. Could you help me as to what year it was?

A. '61 or '62.

Q. So long as the Commodore Industries Limited plant was operating in Jamaica did Commodore Industries Limited continue to sell in the North American market?

A. Yes.

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Q. Did they sell to customers other than Commodore Business Machines Incorporated?

A. I don't recall any other customers but there could have been.

Q. Commodore Business Machines Incorporated was a purchaser in the United States, of course, was it not?

A. If we would sell to the United States they would have been one of the customers, yes.

Q. And did Commodore Industries Limited also sell in Canada?

A. I repeat again, if they would sell it would be to Commodore Portable Typewriter.

Q. Do you recall whether they did sell?

A. They must have sold some.

Q. I understood you to tell me a few moments ago that Commodore Industries Limited (Jamaica) was selling the same typewriter in Canada and the United States. Am I correct in that?

A. But to Commodore Portable Typewriter or Commodore Business Machines Incorporated, and there could have been some other customers, too.

Q. When was Commodore Industries Limited first incorporated?

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THE COMMISSIONER: Q. In Jamaica as a company?

A. Maybe in 1960.

MR. SHEPHERD: Q. I beg your pardon?

A. Maybe in 1960.

Q. After Commodore Portable Typewriters purchased the Quick Adding Machine rights from Commodore Industries Limited did you go to Jamaica thereafter at the expense of Commodore Industries Limited but with Commodore Portable Typewriters directly, in the first instance, paying the expenses?

A. I really don't recall on whose expenses it was, but whatever expenses it was it was usually charged to the proper companies.

Q. I am just trying to find a method, Mr. Tramiel, of determining when this operation ceased and I put it to you that the books of Commodore Portable Typewriters show that Commodore Portable Typewriters paid your travelling expenses to Jamaica duly charged that sum to Commodore Industries Limited. Is that not correct?

A. Yes.

Q. Now, perhaps we could arrive at when Commodore Industries Limited ceased to operate by seeing when you ceased to travel to Jamaica upon such arrangement with respect to

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the payment of your travelling expenses. Is that not correct?

A. It could be.

Q. Would it be correct, as far as you know, then, and I do not know what the answer to this is, that as at present advised, after Commodore Industries Limited stopped selling to the American and Canadian companies you did not travel to Jamaica at the initial expense of Commodore Portable Typewriters but up until that time you did so travel?

A. What you are saying is correct, Mr. Shepherd, but I could not really answer you, how it was charged, because I have advised the office many times where I am going and they charge it to the proper places.

This is why you said earlier Commodore Industries (Jamaica) owed a certain amount for travelling, but the exact charging or how it was done I do not know at the present time, but I know it was done properly.

Q. I show you this prospectus again, Exhibit 345, and I see that paragraph 26 reads:

"No material contract has been "entered into by the Company within the "two years preceding the date hereof "other than contracts entered into in

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"the ordinary course of business
"carried on or intended to be
"carried on by the Company, and the
"contracts referred to in Paragraphs
"9 and 21 hereof, to which reference
"is hereby expressly made, and a
"contract between the Company and
"Commodore Industries Limited, made
"as of July 3, 1961. Pursuant to the
"terms of this latter contract,
"Commodore Industries Limited assigned
"to the Company the exclusive North
"American rights to assemble and sell
"'Quick' Adding Machines, in
"consideration for either royalty
"payments based on sales, not to
"exceed in the aggregate $125,000.00,
"or a cash payment of $100,000.00.
"Reference is hereby expressly made to
"Note 3 to the accompanying Consolidated
"Balance Sheet as at February 28, 1962.
"Messrs. Tramiel and Kapp are the owners
"of all the issued capital stock of
"Commodore Industries Limited."

Is that correct, then? I read it correctly?

A. Yes.

Q. Turning to Note 3 on the Consolidated Balance Sheet forming part of the

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prospectus, it reads:

" The collectability of advances "of Commodore Industries Limited - "Jamaica is dependent upon the "revenue the Jamaican Company will "receive from a contract in which the "franchise rights of the 'Quick' "Adding Machine are leased to Commodore "Business Machines (Canada) Limited and "its Subsidiary. As an alternative, "this contract provides for the purchase "of these franchise rights for "$100,000.00."

Is that correct?

A. Yes.

Q. And the amount referred to as outstanding by Commodore Industries (Jamaica) is $92,097.37? Is that correct?

A. Yes.

Q. What does it mean, the collectability of advances to Commodore Industries Limited (Jamaica) is dependent upon the revenue paid to that Jamaican company by Commodore Business Machines?

A. Well, the way I can read it, that the statement from Commodore Industries Limited or the accountant did not receive it, or if he did receive it they did not have sufficient

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moneys to pay it off.

Q. I take it, then, the accountant is saying that --

A. I am only guessing this.

Q. Yes. -- Commodore Industries Limited may not be able to pay this amount unless Commodore Business Machines generates enough royalties to pay Commodore Industries Limited. Is that correct?

A. It could be.

Q. That prospectus, Mr. Tramiel, was issued in respect of the public offering, or so it was described, of 300,000 shares by Barrett Goodfellow, was it not?

A. Yes.

Q. The evidence before this Commission has been to the effect that the shares purchased under that underwriting were purchased as to a percentage in the order of 85 per cent by money advanced by Atlantic Acceptance Corporation. Did Mr. Morgan tell you that he found the money to buy the shares in that underwriting?

A. No.

Q. Did he later take credit for having done so?

A. No.

Q. Did you know that an exceedingly high percentage of the purchase of shares was

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made by companies with which Mr. Morgan was associated or were otherwise financed by Atlantic money?

A. Well, the only time I knew who the stockholders were was when I received a transfer sheet from the transfer agent.

Q. Yes?

A. And I -- There were many companies with which Mr. Morgan owned, which I didn't know were owned by Mr. Morgan which I know today.

Q. Do you say, so far as that was concerned, the 300,000 shares, you believed that the bulk of the shares, the majority of them, were being purchased by members of the public at large?

A. Yes, sir.

Q. And do you say that Mr. Morgan never pointed out to the directors of Commodore Business Machines (Canada) Limited, either before or after the issue, that it was he who made it possible for Commodore Business Machines to sell those shares?

A. He said he was the man that made it possible to sell shares.

Q. Did he say how he made it possible to sell shares?

A. No.

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Q. He just said he made it possible?

A. Yes. Everybody knew about it.

Q. Yes. You had, did you not, Mr. Tramiel, another underwriting, then, in that same year, 1962, this one with Annett and Company Limited, the prospectus is Exhibit 174, which I now show to you, bearing date the 30th of October, 1962. Is that correct?

A. Yes, it is.

Q. This is a prospectus for the issue of $1,000,000 of Commodore Business Machines debentures, is it not?

A. Yes, it is.

Q. What reason was there for going to Annett's on this particular occasion as opposed to Barrett Goodfellow, whom you had dealt with a few months before?

A. Mr. Morgan was arranging all financial dealings in Commodore. The $300,000, I believe it was --

Q. 300,000 shares?

A. 300,000 shares.

Q. Yes?

A. The proceeds of this -- the sale of those shares immediately went into Commodore Sales Acceptance.

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Q. Yes?

A. Commodore never received any additional moneys, except paying off the loans.

Q. They converted it into equity, isn't that so?

A. Right, which everybody agreed to.

Q. Yes.

A. The same thing with this long term money, this million dollars, Mr. Morgan felt at that time that Commodore needs more long term capital.

Q. Yes.

A. I have never questioned him with whom he made the arrangements or why he did it with Annett and Company. That is all I can answer you on this point.

Q. Did Annetts have any first call upon the underwriting of Commodore Business Machines (Canada) Limited?

A. After.

Q. After what?

A. After the underwriting of the $1,000,000 debenture.

Q. Yes?

A. They had.

Q. What was their right?

A. That any new issues, they will have the first refusal.

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Q. I see. Was that evidenced in writing or was it simply an understanding?

A. To me it was an understanding but I also believe it was in writing. I did not see it in writing but I believe it was.

Q. Now, I wonder if you could assist me on this: In this particular prospectus in the sale of debentures, Mr. Tramiel, the evidence before the Commission has been that a substantial portion of this issue was sold to the public, as opposed to being sold to Mr. Morgan's companies or financed by Atlantic Acceptance. Will you agree with that, or do you know?

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A. I only know, like I say, again, what came out from the Commission; but before I felt the same way, that it was sold to the public.

Q. In paragraph 26 in this prospectus relating to the sale of debentures through Annett to the public in October, 1962, it reads:

" Other than contracts entered "into in the ordinary course of "business the Company has not entered "into any material contracts within the "two years preceding the date hereof "except;

" (i) The Agreement with George "Purvin referred to in Paragraph 20 hereof;

" (ii) The Underwriting Agreement "referred to in paragraph 15 hereof."

Is that correct?

A. That is what it says here.

Q. In that prospectus there is no reference to the company entering into a contract with a company off shore owned by two of its directors, although the Commodore Industries Limited contract was revealed in the prospectus of the previous May. What is the explanation of that?

A. Well, I believe in this period of time when this underwriting, this million dollars

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was already --

Q. Yes?

A. Commodore Portable Typewriters or Commodore Business Machines already bought the Jamaican asset.

Q. Yes. You say you believe, so far as your recollection is concerned, that is the fact and that is the explanation for its omission?

A. Yes. If it was here both attorneys for Annett and Company and for Commodore looked it over and this is the only explanation I can give you.

Q. Was there some discussion with the solicitors on this point?

A. I don't think so.

Q. The solicitors for the company were the same in each prospectus?

A. Yes.

Q. And the auditors were the same?

A. Yes. Mr. Shepherd, if I may interrupt you for a second?

Q. Yes.

A. During that period of time I did not live in Toronto and I did not -- I was not involved from day to day with this prospectus in any way. I always got the finished product, so the actual details I am trying to answer you to the

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best of my knowledge.

Q. Mr. Tramiel, there is no question that you signed the prospectus?

A. Yes.

Q. And I am sure you read it before you signed it?

A. That is right.

Q. Then, do I understand you to say you believe the reason why, in the prospectus of November, 1962, there is an assertion that there is no material contract other than the one with George Purvin and the underwriting contract referred to, is that you believe in the interval between May, 1962, when the previous prospectus was issued, and October, 1962, Commodore Portable Typewriters paid to Commodore Industries Limited the sum required to be paid in order to acquire the Quick Adding Machine rights. Is that what you say?

A. Yes, on the basis of what I read here and what I have signed it would seem that is what was done.

Q. It would not change the fact, would it, that Commodore Portable Typewriters which later became Commodore Business Machines entered into the contract with Commodore Industries Limited on the 3rd of July, 1961?

A. I don't understand your question,

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I am sorry.

Q. I am saying, Mr. Tramiel, on the 3rd of July, 1961, as we have seen, --

A. Yes.

Q. -- Commodore Portable Typewriters which soon changed its name to Commodore Business Machines (Canada) Limited, did enter into a contract with Commodore Industries Limited. Is that correct?

A. If those dates state so, yes.

Q. Yes. And we agree that at the end of May, 1962, this fact was revealed in a prospectus?

A. Yes.

Q. Is that right?

A. Yes.

Q. Now, in October, 1962, the fact has not changed, has it, that Commodore Portable Typewriters, within the preceding two years, entered into this contract with Commodore Industries Limited?

A. In that way you are putting it, it does not change, but I am not a legal person. If it was paid off during that period of time to me, I feel this was quite clear the only agreement we have outstanding.

THE COMMISSIONER: Q. Who drew the prospectus, Mr. Tramiel?

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A. Annett. The million dollar one?

Q. Yes?

A. I believe it was a --

Q. Was it done by your company solicitors?

A. No, it was not. McCarthy and McCarthy.

Q. McCarthy and McCarthy?

A. Yes.

MR.SHEPHERD: Q. Who acted on behalf of the company?

A. Our solicitors, Solomon, Singer and Rosen, I believe, at that time.

Q. Mr. Tramiel, you told the Commission about the loans made by Mr.Medland, Mr. Streit and Mr. King to the company as a result of which they received promissory notes and also a bonus of shares. Is that correct?

A. Yes.

Q. What happened to those loans? Do you require the minute book to assist you in this?

A. Yes.

Q. I show you a minute from Exhibit 322 of a meeting dated 15th of December, 1961. Does it appear that loans of Mr. Streit, Mr. Medland and Mr. King were paid with their agreement by the issue to them of common shares in the capital

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stock of the company in the amounts to Mr. Streit, 125 common shares, Mr. Medland, 125 common shares, and Mr. King, 62 common shares. Is that correct?

A. Yes.

Q. Then, is there a reference in the same minute, reading as follows:

" The Chairman reported to the
"meeting that the Company was indebted
"to the following persons, in the amounts
"set opposite their respective names:- . . ."

I am ceasing to quote for a moment. The minute refers to Mr. Medland, Mr. Streit and Mr. King. At the bottom does it say,

"Don Mills $100,000.00"?

Then, does it read as follows, three lines from the bottom:

"The Chairman advised the meeting
"that the persons aforesaid had
"agreed to accept as payment in full
"for the indebtedness of the Company
"to them as aforesaid, common shares
"in the capital stock of the Company,
"in the amounts following: - "

I am ceasing to quote. There is a reference to Mr. Streit, Mr. Medland and Mr. King, which I read, and then "Don Mills 250 common shares." Is that correct?

A. Yes.

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Q. Then, does it read:

"562 common shares with a par value "of One Dollar each of the capital "stock of the Company, heretofore "called the common shares, be and the "same are hereby allotted in the "following aggregate amounts."

There follows three columns entitled "Name","Number of Common Shares" and "Aggregate Payment Received by Cancellation of the Company's Indebtedness". Following that it shows to Don Mills 250 under number of common shares and $100,000 under aggregate payment received by cancellation of the company's indebtedness. Is that correct?

A. Yes, that is what it says here.

Q. Who is Don Mills on this particular occasion?

A. Don Mills is Mr. Morgan, Mr. Kapp and myself.

Q. In equal shares?

A. I believe so.

Q. Why did you and Mr. Morgan and Mr. Kapp choose to use this name in this dealing with the company?

A. Well, it was easier than using the names, three names. We used to live in Don Mills for many years and we just picked this as a

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name.

Q. I do not understand in what sense it was easier to use the name, Mr. Tramiel?

A. Instead of calling it, like, three individuals' names.

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Q. Yes.

A. It was easier it seemes, and especially for me, to use one name instead of three names.

Q. Was it intended to deceive anyone?

A. Not as far as I know in any way.

Q. Did Mr.Medland, Mr. Streit and Mr. King know that Don Mills was simply a name adopted by yourself, Mr. Kapp and Mr. Morgan?

A. Well, I have no reason to hide it in any way.

Q. Apart from the reasons did you yourself communicate the knowledge to anyone of those three persons, Messrs. Medland, Streit and King, of who Don Mills was?

A. I had very little contact with these gentlemen.

Q. What is the answer to the question, Mr. Tramiel, no you did not communicate personally this information to them?

A. I don't think so.

Q. Do you have any knowledge of whether

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Mr. Kapp or Mr. Morgan communicated this knowledge to them?

A. I don't have the knowledge.

Q. The minute states that Don Mills had on that date or before that date loaned $100,000 to Commodore Portable Typewriters. Was that statement true? I should say, in fairness to you, Mr. Tramiel, my information is that it was not true?

A. Well, again, if I could see the minutes.

Q. Yes?

A. Is that the loan?

Q. I do not think the minutes will help you, Mr. Tramiel. I think the minutes state, do they not:

" The Chairman reported . . . "

- that is you --

" The Chairman reported to the "meeting that the Company was indebted "to the following persons, in the "amounts set opposite their respective "names: - "

"Don Mills $100,000.00"

Is that correct?

A. Yes.

Q. Do you recall whether Don Mills - that is, yourself, Mr.Morgan and Mr. Kapp -

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had on that date, the 15th of December, 1961, in fact loaned any money to this company?

A. According to the minutes I believe they did.

Q. What about your own recollection of the matter?

A. My own recollection, I could not give you a sure answer of the dates.

Q. Is it fair to assume from the fact that the minutes read that you informed the meeting that Don Mills had loaned $100,000 on that date, or prior to that date, and signed the minutes, that that is what you told the directors?

A. Yes, sir.

Q. Then, Mr. Tramiel, I put it to you, it was not correct?

Could I have Exhibit 2148, please?

I show you Exhibit 2148, being a cheque drawn by the Canadian Bank of Commerce on the 19th of January, 1962, payable to Commodore Portable Typewriter Company Limited in the sum of $100,000 by Aurora Leasing Corporation Limited, signed H.Wagman. Do you see that?

A. Yes.

MR.SHEPHERD: May I have Exhibit 1629.

Q. I show you Exhibit 1629.1, this being a letter dated 18th of January, 1962,

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addressed to Aurora Leasing Corporation Limited, signed Jack Tramiel and Manfred Kapp -- Correction, signed Don Mills, Jack Tramiel, Manfred Kapp, reading:

"Dear Sirs:

" This is your authority to

"issue directly to Commodore Portable

"Typewriter Co. Limited a cheque for

"$100,000.00 and charge to the

"account of Don Mills.

" Yours truly,

" DON MILLS

" J.Tramiel

" M.Kapp."

Is that correct?

A. Yes.

Q. Is it not perfectly plain, Mr. Tramiel, that the $100,000 to which the minutes of the 15th of December referred was not in fact advanced to Commodore Portable Typewriters until the 19th of January and therefore, the assertion to the directors that the company was indebted to Don Mills was false?

A. Mr. Shepherd, the way the minutes read and the evidence you have shown me, maybe you are right, but I must have been told by the lender, or by someone, that we will have this

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$100,000.

Q. What is troubling me particularly, though, Mr. Tramiel, is what were the other directors told?

A. Well, I am not sure that Mr. King and Mr. Medland and Mr. Streit -- Mr. King especially, being also a shareholder in Aurora, must have known about it. It was not anything strange; nothing was hidden. I did not personally tell anything about Don Mills but I am sure Mr. Medland, being a director and being an accountant, used to look at the minutes and knowing what was going on and asked questions.

Q. Would you agree with me, Mr. Tramiel, anyone looking at the minutes no one would know yourself, Mr. Kapp and Mr. Morgan were Don Mills, anyone looking at the minutes would be misled into thinking Don Mills had, in fact, loaned the money?

A. If Mr. Morgan had arranged the loan he was also the individual that was loaning the money to the company. Mr. Medland, being a director of Atlantic, Mr. King being a director of Aurora, they were all people involved. There was nothing hidden in any way.

Q. Mr. Morgan's duty is Mr. Morgan's duty; and your duty is your duty. Could you

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assist us as to whether or not, being president of that company and chairman of that meeting, you frankly, candidly and flatly informed your fellow directors of who Don Mills was and informed them that no such funds had as yet been advanced, although you expected such a loan would be made?

A. I don't recall advising the directors the statement the way you have made.

THE COMMISSIONER: Before we adjourn, perhaps I should say that our previous sitting was adjourned until 10:00 a.m. yesterday. In order to save needless expenditure of time the reporters were advised that no sitting in fact would take place yesterday, on November 29. However, I attended with counsel and the secretary to make sure nobody did respond to the return of the previous adjournment at that time.

We will now adjourn without fail until 10:00 a.m. tomorrow.

---Whereupon the hearing adjourned at 4:56 p.m. on Wednesday, 30th November, 1966, until 10:00 a.m. on Thursday, 1st December, 1966.

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Certified correct as to pages 11286 - 11303, 11353 - 11369 and 11410 - 11437.

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Chartered Shorthand Reporter

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Shorthand Reporter

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